



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 25, 2011

Mr. Steven Haas  
Records Coordinator  
Burleson Police Department  
225 West Renfro  
Burleson, Texas 76028-4261

OR2011-12344

Dear Mr. Haas:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 429097 (PIR No. 482).

The City of Burleson (the "city") received a request for video recordings relating to four named city police officers and a specified case number. You claim some of the requested information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the information you submitted. We note the submitted information consists of video recordings relating to only three of the four named officers. We assume the city has released any responsive information relating to the fourth officer, to the extent such information existed when the city received the present request for information. If not, then any such information must be released immediately.<sup>1</sup> See Gov't Code §§ 552.221, .301, .302; Open Records Decision No. 664 (2000).

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the officer has family members, regardless of whether the officer complies with sections 552.024 or 552.1175 of the Government Code. See Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)). We note section 552.117(a)(2) is applicable only to information a governmental body maintains in its capacity as a peace officer's employer. We also note section 552.117 is not applicable to information relating to a peace officer employed by a governmental body other than the one that received the request for

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<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

information regarding the officer. *See* Open Records Decision No. 674 at 4 (2001) (governmental body is normally obliged under Gov't Code § 552.117 to protect only information pertaining to employees and officials of that governmental body). In this instance, the submitted information is maintained by the city's police department for law enforcement purposes. Moreover, the information the city seeks to withhold pertains to a Johnson County Sheriff's deputy (the "deputy"). Therefore, the city may not withhold information relating to the deputy under section 552.117 of the Government Code.

Nevertheless, the city may be required to withhold information relating to the deputy under section 552.1175 of the Government Code.<sup>2</sup> This section protects information relating to a peace officer, as defined by article 2.12 of the Code of Criminal Procedure, or a county jailer, as defined by section 1701.001 of the Occupations Code. Section 552.1175(b) provides as follows:

(b) Information that relates to the home address, home telephone number, emergency contact information, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 3 (to be codified as an amendment to Gov't Code § 552.1175(b)). The city seeks to withhold the deputy's address. We note the submitted information also includes other information pertaining to the deputy that falls under section 552.1175. If the deputy is a peace officer or county jailer for purposes of section 552.1175(a), then the city must withhold his home address and the other information we have indicated under section 552.1175 of the Government Code if he chooses to restrict public access to the information in accordance with section 552.1175(b). We note this exception is not applicable to a business telephone number. *See* Gov't Code § 552.117; Open Records Decision No. 622 at 4 (1994) (legislative history makes clear purpose of Gov't Code § 552.117 is to protect public employees from being harassed *at home*).

We note the submitted information also includes license plate numbers. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. *See* Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code

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<sup>2</sup>This office will raise section 552.1175 on behalf of a governmental body, as this section is a mandatory exception to disclosure. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

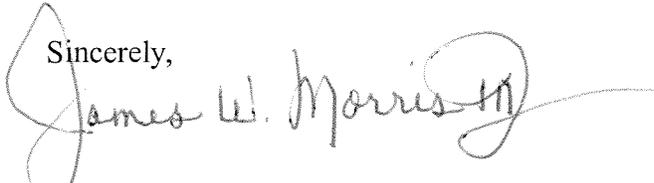
§ 552.130).<sup>3</sup> The city must withhold the license plate numbers that appear in the submitted videos under section 552.130 of the Government Code.<sup>4</sup>

In summary, the city must withhold (1) the deputy's home address and the other information we have indicated under section 552.1175 of the Government Code if he is a peace officer or county jailer for purposes of section 552.1175(a) and chooses to restrict public access to the information in accordance with section 552.1175(b) and (2) license plate numbers under section 552.130 of the Government Code. The city must release the rest of the submitted information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 429097

Enc: Submitted information

c: Requestor  
(w/o enclosures)

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<sup>3</sup>Section 552.130 also is a mandatory exception this office will raise. Gov't Code §§ 552.007, .352; ORD 674 at 3 n.4.

<sup>4</sup>We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including a Texas license plate number and the portion of any video that depicts a Texas license plate number under section 552.130 of the Government Code.