



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 13, 2012

Sergeant Michael Munson  
Custodian of Records  
Webster Police Department  
217 Pennsylvania Avenue  
Webster, Texas 77598

OR2012-02199

Dear Sgt. Munson:

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# 445276.

The Webster Police Department (the "department") received a request for the disciplinary records of six officers and the video from a named officer's patrol shift on a particular date. You state some information has been disposed of in accordance with the department's records retention policy. We note the Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *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), 452 at 3 (1986), 362 at 2 (1983). We understand you to claim the submitted video is excepted from disclosure under section 552.101 of the Government Code in conjunction with chapter 730 of the Transportation Code. We have considered your claim and reviewed the submitted information.

Initially, we note that you did not submit information responsive to the request for disciplinary records of six officers. We assume the department has released these records to the requestor. If it has not, it must do so at this time to the extent that such records existed and were maintained by the department on the date the request for information was received. *See Gov't Code* §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Section 552.101 of the Government Code exempts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. We understand the department to assert the responsive information is made confidential under section 552.101 in conjunction with chapter 730 of the Transportation Code. Section 730.004 of the Transportation Code provides:

Notwithstanding any other provisions of law to the contrary, including Chapter 552, Government Code, except as provided by Sections 730.005-730.008, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

*Id.* § 730.004. Section 730.003 provides, for purposes of chapter 730 of the Transportation Code:

(1) “Agency” includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records.

...

(4) “Motor vehicle record” means a record that pertains to a motor vehicle operator’s or driver’s license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

*Id.* § 730.003(1), (4). Section 730.004 only applies to an “agency . . . or an authorized . . . contractor of an agency” that compiles or maintains motor vehicle records. *See id.* § 730.003(1). The department is not an agency as defined by section 730.003(1). Therefore, chapter 730 does not apply to the department. Accordingly, no part of the responsive information may be withheld under section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).

We note some of the submitted information may be excepted from disclosure pursuant to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1)-(2). Upon review, we find the audio and video portions of the submitted video recording contain information subject to section 552.130, and the audio recording is intertwined with the corresponding video recording. You indicate the department does not have the technological capability to redact the motor vehicle record information from the submitted video recording. As such, we determine the department must withhold the submitted video recording in its entirety under section 552.130 of the Government Code.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 445276

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).