



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 24, 2012

Mr. Nathan L. Brown
Assistant City Attorney
City of El Paso
2 Civic Center Plaza 9th Floor
El Paso, Texas 79901

OR2012-13502

Dear Mr. Brown:

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# 463020.

The El Paso Police Department (the "department") received a request for information related to a former officer of the department. Although you initially claimed the requested information is excepted from disclosure under section 552.108 of the Government Code, you have since withdrawn your assertion of that exception. We have reviewed the information you submitted.

We note the department may be required to withhold some of the submitted information under section 552.117 of the Government Code.¹ Section 552.117(a)(2) 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* Gov't Code § 552.117(a)(2). Section 552.117(a)(2) adopts the definition of peace officer found at article 2.12 of the Code of Criminal Procedure. We have marked information the department must withhold under section 552.117(a)(2) if the individual to whom the information pertains is still a peace officer for purposes of article 2.12 of the Code of Criminal Procedure.

In the event the individual concerned is no longer a peace officer, section 552.117(a)(1) excepts from disclosure the home address and telephone number, emergency contact

¹This office will raise section 552.117 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).

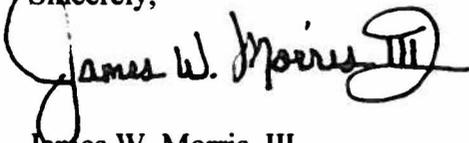
information, social security number, and family member information of a current or former official or employee of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See id.* §§ 552.117(a)(1), .024. Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See Open Records Decision No. 530 at 5 (1989)*. Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who did not timely request confidentiality under section 552.024. Therefore, in the event the information we have marked under section 552.117 of the Government Code is not protected by section 552.117(a)(2), the department must withhold the information under section 552.117(a)(1) if the individual concerned timely requested confidentiality for the information under section 552.024 of the Government Code.

In summary, the department must withhold the information we have marked (1) under section 552.117(a)(2) of the Government Code if the individual concerned is still a peace officer for purposes of article 2.12 of the Code of Criminal Procedure or (2) under section 552.117(a)(1) of the Government Code if the individual is no longer a peace officer but timely requested confidentiality for the marked information under section 552.024 of the Government Code. In either event, the rest of the submitted information must be released.

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, 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/bhf

Ref: ID# 463020

Enc: Submitted documents

c: Requestor
(w/o enclosures)