



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 30, 2013

Mr. Stephen A. Cumbie
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2013-08959

Dear Mr. Cumbie:

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# 488937 (PIR No. W024434).

The City of Fort Worth (the "city") received a request for specified statements made by a named city police officer regarding the suspension of two named city police officers. You state you have released some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under section 552.117 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home addresses, home telephone numbers, emergency contact information, social security number, and or family member information of a peace officer, as defined by article 2.12 of the Code of Criminal Procedure, regardless of whether the peace officer complies with section 552.024 of the Government Code or section 552.1175 of the Government Code. Gov't Code § 552.117(a)(2). In this instance, it is unclear whether the individual whose

¹Although you raise section 552.1175 of the Government Code for information pertaining to the named officer, we note section 552.117 is the proper exception to raise for information held in an employment context. Additionally, although you raise section 552.117(a)(1) of the Government Code as an exception to disclosure of this information, we note section 552.117(a)(2) is the proper exception to raise when seeking to withhold information related to a peace officer. *See* Gov't Code § 552.117(a)(2).

information is at issue is currently a licensed peace officer as defined by article 2.12. Accordingly, if the individual whose information is at issue is currently a licensed peace officer as defined by article 2.12, then the city must withhold the information we have marked under section 552.117(a)(2) of the Government Code. However, we find no portion of the remaining information consists of the home addresses, home telephone numbers, emergency contact information, social security number, and or family member information of a peace officer. Accordingly, no portion of the remaining information at issue may be withheld under section 552.117(a)(2).

In the event the individual whose information is at issue is no longer a licensed peace officer, then the information we have marked may be subject to section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and or family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. *Id.* § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See Open Records Decision No. 530 at 5 (1989)*. Therefore, a governmental body must withhold information under section 552.117(a)(1) on behalf of current or former officials or employees only if these individuals made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. To the extent the individual whose information is at issue timely elected to keep such information confidential under section 552.024, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code. If the employee did not make a timely election under section 552.024, the city may not withhold the information we have marked under section 552.117(a)(1) of the Government Code. However, we find no portion of the remaining information consists of the home addresses, home telephone numbers, emergency contact information, social security number, and or family member information of current or former employee of a governmental body. Accordingly, no portion of the remaining information at issue may be withheld under section 552.117(a)(1).

In summary, to the extent the information we have marked pertains to a currently licensed peace officer, the city must withhold the information we have marked under section 552.117(a)(2) of the Government Code. To the extent the employee is not a currently licensed peace officer and timely requested confidentiality, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The remaining 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,

A handwritten signature in black ink, appearing to read 'V. Burgess', with a horizontal line extending to the right.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 488937

Enc. Submitted documents

c: Requestor
(w/o enclosures)