



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 2, 2013

Ms. Alexis G. Allen
For the City of Lancaster
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

OR2013-13018

Dear Ms. Allen:

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# 498872.

The City of Lancaster (the "city"), which you represent, received a request for police reports and complaints involving a named individual.¹ You state you are releasing some information. You claim some of the submitted information is excepted from disclosure under section 552.1175 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.

Initially, you acknowledge, and we agree, the city failed to comply with section 552.301 of the Government Code in seeking an open records decision from this office. *See* Gov't Code § 552.301(b), (e). A governmental body's failure to comply with the procedural requirements of the Act results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ)

¹We note the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

²Although you also raise section 552.117 of the Government Code for portions of the submitted information, we note section 552.1175 is the proper exception to raise in this instance because the city does not hold the information at issue in an employment capacity.

(governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). The presumption that information is public under section 552.302 can be overcome by demonstrating the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Because section 552.1175 of the Government Code can provide a compelling reason to withhold information, we will consider the applicability of this exception to the submitted information.

Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Act of May 26, 2013, 83rd Leg., R.S., H.B. 1632, § 3 (to be codified as an amendment to Gov't Code § 552.1175). Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" Gov't Code § 552.1175(a)(1). To the extent the information we have marked relates to a peace officer who elects to restrict access to the information in accordance with section 552.1175(b), it must be withheld from disclosure under section 552.1175 of the Government Code. However, if the individual whose information is at issue is not currently a licensed peace officer or does not elect to restrict access to the information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175. The city must release the remaining 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 498872

Enc. Submitted documents

cc: Requestor
(w/o enclosures)