



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 2, 2013

Ms. Barbara Boulware-Wells  
Assistant City Attorney  
McKamie Krueger & Knight, L.L.P.  
223 W. Anderson Lane, Suite A105  
Austin, Texas 78752

OR2013-20790

Dear Ms. Boulware-Wells:

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# 507178.

The City of Jonestown (the "city"), which you represent, received a request for information pertaining to a named police officer. You state the city has released some of the requested information. You claim some of the submitted information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note some of the submitted information is subject to section 552.102(a) of the Government Code, which excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy[.]"<sup>1</sup> Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Having carefully reviewed the submitted information, we have marked the information that must be withheld under section 552.102(a) of the Government Code.

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

Section 552.117(a)(2) of the Government Code excepts from public 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 peace officer has family members, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code. *See* Gov't Code § 552.117(a)(2). Section 552.117 also protects a peace officer's personal cellular telephone number if a governmental body does not pay for the cellular telephone service. *See* Open Records Decision No. 670 at 6 (2001) (Gov't Code § 552.117(a)(2) excepts from disclosure peace officer's cellular telephone or pager number if officer pays for cellular telephone or pager service). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, the city must withhold the information we have marked under section 552.117(a)(2) of the Government Code. However, if the marked telephone numbers are cellular telephone numbers, the city must withhold them under section 552.117(a)(2) only if a governmental body does not pay for the cellular telephone service. The remaining information is not subject to section 552.117(a)(2). Therefore, the city may not withhold any portion of the remaining information under section 552.117(a)(2).

In summary, the city must withhold the date of birth we have marked under section 552.102(a) of the Government Code. The city must withhold the information we have marked under section 552.117(a)(2) of the Government Code. However, if the marked telephone numbers are cellular telephone numbers, the city must withhold them under section 552.117(a)(2) only if a governmental body does not pay for the cellular telephone service. 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](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,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/akg

Ref: ID# 507178

Enc. Submitted documents

c: Requestor  
(w/o enclosures)