



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 15, 2022

Mr. Trey Qualls
Assistant City Attorney
City of Fort Worth
200 Texas Street, Third Floor
Fort Worth, Texas 76102

OR2022-04502

Dear Mr. Qualls:

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# 930891 (PIR# P001059-111221).

The Fort Worth Police Department (the "department") received a request for information pertaining to its involvement in a specified federal program. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the interests of the United States Drug Enforcement Administration (the "DEA"). Accordingly, you state, and provide documentation showing, you notified the DEA of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the DEA. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the DEA argues against disclosure of information not submitted to this office for review. This ruling does not address information beyond what the department has submitted to us for our review.¹ *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit a copy of specific information requested). Accordingly, this ruling is limited to the information the department submitted as responsive to the request for information.

¹ As we are able to make this determination, we need not address the DEA's arguments against disclosure of this information.

Section 552.117(a)(2) of the Government Code exempts from public disclosure the home address, home telephone number, emergency contact information, and social security number of a current or honorably retired peace officer, as well as information that reveals whether the current or honorably retired peace officer has family members, regardless of whether the current or honorably retired peace officer complies with sections 552.024 and 552.1175 of the Government Code.² *See id.* § 552.117(a)(2); *see also id.* § 552.003(1-b) (defining “honorably retired” for purposes of the Act). We note, for purposes of section 552.117, “family member” means a spouse, minor child, or adult child who resides in the person’s home. *See id.* § 552.117(c) (providing that “family member” has meaning assigned by Fin. Code § 31.006(d)). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. We note section 552.117 also encompasses a personal cellular telephone number, unless the cellular service is paid for by a governmental body. *See* Open Records Decision No. 506 at 5-7 (1988) (statutory predecessor to section 552.117 not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). Upon review, if the cellular telephone service is not paid for by a governmental body, we find the department must withhold the information we marked under section 552.117(a)(2) of the Government Code.

Section 552.1175 of the Government Code 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. Gov’t Code § 552.1175. Section 552.1175 applies, in part, to “current or honorably retired peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *See id.*; *see also id.* § 552.003(1-b). We note section 552.1175 is applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a government body. *See* Open Records Decision No. 506 at 5-6 (1988). Upon review, we find some of the remaining information, which we marked, pertains to a peace officer and is held by the department in a non-employment capacity. Thus, to the extent the information we marked pertains to a current or honorably retired peace officer and the officer elects to restrict access to his information in accordance with section 552.1175(b), and if the cellular telephone service is not paid for by a governmental body, the department must withhold the information we marked under section 552.1175 of the Government Code. If the individual whose information is at issue is not a current or honorably retired peace officer or no election is made, the department may not withhold this information under section 552.1175 of the Government Code.

Section 552.130 of the Government Code exempts from public disclosure information relating to a motor vehicle operator’s or driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130. Accordingly, the department must withhold the information we marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code exempts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail

² The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). The e-mail address at issue is not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the department must withhold the e-mail address we marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its disclosure.

In summary, if the cellular telephone service is not paid for by a governmental body, we find the department must withhold the information we marked under section 552.117(a)(2) of the Government Code. To the extent the information we marked pertains to a current or honorably retired peace officer and the officer elects to restrict access to his information in accordance with section 552.1175(b), and if the cellular telephone service is not paid for by a governmental body, the department must withhold the information we marked under section 552.1175 of the Government Code. The department must withhold the information we marked under section 552.130 of the Government Code. The department must withhold the e-mail address we marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its disclosure. The department 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Joseph Hoggatt
Assistant Attorney General
Open Records Division

JWH/jm

Ref: ID# 930891

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)