



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 12, 2014

Ms. Cary Grace
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2014-20560

Dear Ms. Grace:

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# 544906.

The Austin Police Department (the "department") received a request for information regarding an individual who rode in a department vehicle on a specified date. You state the department has no responsive information with respect to part of the request.¹ You claim the remaining requested information is excepted from disclosure under section 552.1175 of the Government Code. We have considered the exception you claim and reviewed the submitted information.²

Initially, you note some of the submitted information, which you have indicated, is not responsive to the instant request because it does not consist of the requested information. This ruling does not address the public availability of any information that is not responsive

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²You acknowledge, and we agree, the department did not comply with the requirements of section 552.301 of the Government Code. *See Gov't Code* § 552.301(b), (e). Nonetheless, section 552.1175 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the department's claim.

to the request and the department is not required to release such information in response to this request.

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. *See* Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). You state the remaining requested information, which you have marked, relates to a peace officer who is employed by the department. You state, and provide documentation showing, the officer at issue has elected to restrict access to his information in accordance with section 552.1175(b). We note the department does not maintain the information in an employment context. Accordingly, the department must withhold the information you have marked under section 552.1175 of the Government Code.

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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/ac

Ref: ID# 544906

Enc. Submitted documents

c: Requestor
(w/o enclosures)