



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 27, 2017

Ms. Charla Thomas
Deputy City Attorney
Legal Department
City of Temple
2 North Main Street, Suite 308
Temple, Texas 76501

OR2017-08967

Dear Ms. Thomas:

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# 655131.

The City of Temple (the "city") received a request for all complaints made against a named city police officer, as well as the officer's photograph. You state the city does not possess information responsive to the portion of the request seeking complaints made against the named officer.¹ You claim the submitted information is excepted from disclosure under section 552.119 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.119 of the Government Code provides the following:

- (a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from [required public disclosure] unless:

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

- (1) the officer is under indictment or charged with an offense by information;
- (2) the officer is a party in a civil service hearing or a case in arbitration; or
- (3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

Gov't Code § 552.119. Under section 552.119, a governmental body must demonstrate, if the documents do not demonstrate on their face, that release of the photograph would endanger the life or physical safety of a peace officer. You argue in light of recent national incidents of law enforcement targeting and ambush and the overall general negative attitude towards peace officers, release of the submitted photograph "would place the officer in significant danger and jeopardize his safety by making him readily identifiable to anyone with an animus towards law enforcement." Upon review, however, we find you have not demonstrated the release of the photograph at issue would endanger the life or physical safety of the depicted officer. Thus, the city may not withhold the photograph at issue under section 552.119 of the Government Code. As you raise no further exceptions to disclosure, the city must release the submitted 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,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/som

Ref: ID# 655131

Enc. Submitted documents

c: Requestor
(w/o enclosures)