



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 18, 2019

Mr. John C. Lemon
Counsel for the City of Alice
Lemon & Gonzalez-Lemon, L. L. P.
520 East 2nd Street
Alice, Texas 78332

OR2019-35839

Dear Mr. Lemon:

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# 802348.

The City of Alice (the "city"), which you represent, received a request for a photograph of a named city police department officer. You claim the requested information is excepted from disclosure under sections 552.1175, 552.119, and 552.152 of the Government Code. We have considered the exceptions you claim.¹

Section 552.119 of the Government Code provides as follows:

(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, the release of which would endanger the life or physical safety of the officer, is excepted from [required public disclosure] unless:

- (1) the officer is under indictment or charged with an offense by information;
- (2) the officer is a party in a fire or police civil service hearing or a case in arbitration; or

¹ Although in this instance we can determine the extent to which this fungible information may be excepted from disclosure, we advise the city in the future to submit for review the actual information that it seeks to protect from disclosure and for which it seeks a ruling from this office. *See* Gov't Code §§ 552.301, .302.

(3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph exempt from disclosure under Subsection (a) may be made public only if the peace officer or security 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, release of the photograph would endanger the life or physical safety of a peace officer. Upon review, we find the city has demonstrated that release of the peace officer's photograph would endanger the life or physical safety of the officer. Furthermore, the exceptions to section 552.119 do not appear to apply. Therefore, the city must withhold the requested photograph under section 552.119 of the Government Code.²

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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/jxd

Ref: ID# 802348

c: Requestor

² As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.