



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 31, 2011

Ms. Amy L. Sims  
Assistant City Attorney  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR2011-01565

Dear Ms. Sims:

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# 407670.

The City of Lubbock (the "city") received a request for the name, badge number, and photograph of a city police officer who issued a citation to a named individual at a specified school on a specified date. You claim the submitted information is excepted from disclosure under section 552.119 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information is not responsive to the present request because it does not consist of the name, badge number, or photograph of the officer specified in the request. This decision does not address the public availability of the nonresponsive information, and that information need not be released.

Next, we note you have not submitted the name or badge number of the officer specified in the request. To the extent information responsive to that part of the request existed and was maintained by the city on the date the city received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See Gov't*

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<sup>1</sup>Although you raise section 552.101 of the Government Code in conjunction with section 552.119 of the Government Code, section 552.101 does not encompass other exceptions in the Act.

Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You raise section 552.119 of the Government Code for the submitted responsive information. This section provides:

(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:

- (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.

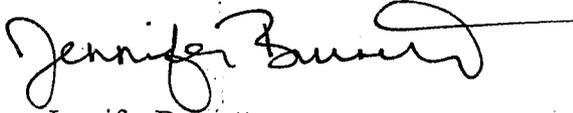
Gov't Code § 552.119. By its terms, section 552.119 only applies to photographs of licensed peace officers as defined by article 2.12. *Id.* § 552.119(a). Further, to demonstrate the applicability of section 552.119, a governmental body must demonstrate that release of the photograph would endanger the life or physical safety of a police officer. Upon review, we find you have failed to demonstrate how release of the responsive photograph would endanger the officer's life or physical safety. Therefore, the city may not withhold the responsive photograph under section 552.119 of the Government Code. As you raise no additional exceptions to disclosure, the city must release the responsive photograph to the requestor.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Burnett". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/vb

Ref: ID# 407670

Enc. Submitted documents

c: Requestor  
(w/o enclosures)