



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 30, 2013

Ms. Monique Auchey  
Records Custodian  
City of Leander Police Department  
705 Leander Drive  
Leander, Texas 78641

OR2013-13142

Dear Ms. Auchey:

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# 494737.

The Leander Police Department (the "department") received a request for (1) the name and rank of each police officer, as well as the name of each police officer's supervisor, who responded to a specified incident; (2) the name of the top ranking individual in the department; and (3) the name, rank, height, weight, and age of each police officer, as well as a photograph of each police officer and the name of each police officer's supervisor, who responded to another specified incident. You indicate some of the requested information does not exist.<sup>1</sup> You state the department has released some information. You claim some of 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.

Initially, we note most of the submitted information does not consist of (1) the name and rank of each police officer, as well as the name of each police officer's supervisor, who responded

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<sup>1</sup>The 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).

to the specified incident; (2) the name of the top ranking individual in the department; or (3) the name, rank, height, weight, and age of each police officer, as well as a photograph of each police officer and the name of each police officer's supervisor, who responded to the other specified incident. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

You claim the submitted photographs are protected by section 552.119 of the Government Code. Section 552.119 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:

(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 state that, due to the nature of the specified incidents, the release of the submitted photographs would endanger the lives or physical safety of the officers depicted. We understand the officers concerned have not consented to the public disclosure of their photographs, and the submitted photographs are not subject to subsections (1) through (3) of section 552.119(a). Based on your representations and our review, we have determined that release of the submitted photographs would endanger the lives or physical safety of the officers. Therefore, the department must withhold the submitted photographs under section 552.119 of the Government Code. The department must release the remaining responsive 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](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,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/tch

Ref: ID# 494737

Enc. Submitted documents

c: Requestor  
(w/o enclosures)