



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 22, 2014

Mr. Ricardo Morado
Counsel for the City of San Benito
Roerig, Oliveira & Fisher, L.L.P.
855 West Price Road, Suite 9
Brownsville, Texas 78520-8786

OR2014-06498

Dear Mr. Morado:

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# 520268.

The City of San Benito (the "city"), which you represent, received two requests from the same requestor for the organizational chart of the city's police department, including names, ranks, dates of hire, and certifications. You state the city has released some of the submitted information. You claim the remaining information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Initially, we note the information at issue is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

...

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]

Gov't Code § 552.022(a)(2). The information at issue consists of the names of employees of the city's police department (the "department"), which are subject to section 552.022(a)(2). This information must be released unless it is made confidential under the Act or other law. *See id.* Although the city seeks to withhold this information under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and does not make information confidential under the Act. *See Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver).* Therefore, the information at issue may not be withheld under section 552.108. However, we note the information at issue is subject to section 552.152 of the Government Code.² Because section 552.152 makes information confidential under the Act, we will address its applicability to the information at issue.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You state the release of the complete list of names of department police officers could compromise the officers' security, including the security of officers who work undercover. You inform us "[o]rganized criminal cartels . . . have offered monetary rewards to those who identify, target and kill law enforcement officers" and "have made it clear they consider off-duty and on-duty officers to be fair game." We understand release of this information would jeopardize the safety of these officers and subject them to a substantial threat of physical harm. Based on your representations and our review, we find you have demonstrated the release of the information at issue would subject the officers at issue to a substantial threat of harm. Thus, the city must withhold the information at issue under section 552.152.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).*

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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/akg

Ref: ID# 520268

Enc. Submitted documents

c: Requestor
(w/o enclosures)