



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 19, 2014

Mr. Michael L. Garza
Assistant District Attorney
Hidalgo County Criminal District Attorney's Office
100 North Closner Boulevard, Room 303
Edinburg, Texas 78539

OR2014-23113

Dear Mr. Garza:

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# 548533 (Ref. No. 2014-0128-DA).

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for the official sheriff's office photographs of nineteen named current and former employees. You state the sheriff's office will release some of the requested information. You also state the sheriff's office does not have any responsive information for one of the named individuals.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:

(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 to disclose information that did not exist when the request for information was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

(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.

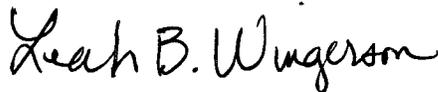
(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

Gov't Code § 552.119. Under section 552.119, a governmental body must demonstrate, if a document does not demonstrate on its face, that release of a photograph would endanger the life or physical safety of a peace officer. You generally assert release of the submitted photographs "may endanger the lives or physical safety of the officers" at issue. However, you have not explained, or otherwise demonstrated, and it is not apparent from our review of the submitted information, how release of the submitted photographs would endanger the lives or physical safety of the officers at issue. Therefore, the sheriff's office may not withhold the submitted employee photographs under section 552.119 of the Government Code. As you have not raised any other exceptions to disclosure, the sheriff's office must release the submitted photographs.

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/bhf

Ref: ID# 548533

Enc. Submitted documents

c: Requestor
(w/o enclosures)