



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 30, 2015

Mr. Douglas E. Manning
Assistant County Attorney
Orange County
801 Division
Orange, Texas 77630

OR2015-06003

Dear Mr. Manning:

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# 557725.

The Orange County Sheriff's Office (the "sheriff's office") received two requests for information pertaining to the arrest of a named individual. You state you have released some information. 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 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.¹ Furthermore, a photograph of a peace officer cannot be withheld under section 552.119 if (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; (3) the photograph is introduced as evidence in a judicial proceeding; or (4) the officer gives written consent to the disclosure.

You state the officer depicted in the submitted photograph works as an undercover narcotics officer. You contend disclosure of the submitted photograph would endanger the physical safety of the officer. You state the officer whose photograph is at issue is not under indictment or charged with an offense by information or a party in a civil service hearing or a case in arbitration. You also state the officer has not consented to the disclosure of his image. Based upon your representations and our review, we conclude the sheriff's office must withhold the submitted information under section 552.119 of the Government Code.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

¹"Peace officer" is defined by article 2.12 of the Code of Criminal Procedure.

Ref: ID# 557725

Enc. Submitted documents

c: Requestors
(w/o enclosures)