



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 13, 2015

Ms. Molly Cost
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2015-21377

Dear Ms. Cost:

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# 582897 (PIR# 15-3694).

The Texas Department of Public Safety (the "department") received a request for information pertaining to a named department employee, including a picture of the named employee, information pertaining to the named employee's service with the department, and his status with the department. You claim the submitted information is excepted from disclosure under sections 552.101, 552.119, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted a picture of the named employee. To the extent any remaining responsive information existed on the date the department received the request, we assume the department has released it. If the department has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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. The department informs us an individual the named employee arrested died in the Waller County Jail. You state the arrest of this individual by the named employee and the individual's death have gained national attention from the news media and the public. The department informs us threatening remarks towards the named employee have been posted on the internet and protests have occurred outside the named employee's residence. We understand the named employee has not consented to the public disclosure of his photograph. The department informs us the submitted photograph is not subject to subsections (1) through (3) of section 552.119(a). Based on these representations, we agree release of the submitted photograph would endanger the life or physical safety of the peace officer depicted. Therefore, the department must withhold the submitted photograph under section 552.119.¹

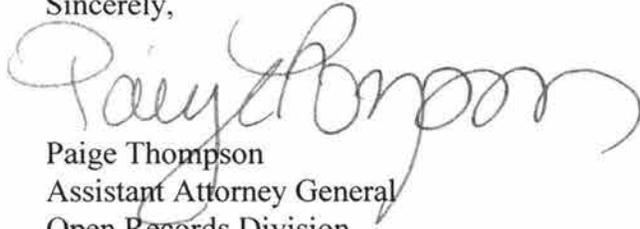
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paige Thompson". The signature is written in black ink and is positioned above the typed name and title.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 582897

Enc. Submitted documents

c: Requestor
(w/o enclosures)