



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 7, 1998

Mr. Richard Brown  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas-City Hall  
Dallas, Texas 75201

OR98-2381

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118731.

The Dallas Police Department (the "department") received an open records request for "all photos, the Medical Examiner's report, and the EMS report" pertaining to a fatal accident that occurred on July 8, 1998. You have apparently agreed to release all of the requested information except for a single photograph that contains, among other things, the image of a Dallas police officer. You contend that this photograph is excepted from required public disclosure by section 552.119 of the Government Code.

Section 552.119 provides as follows:

(a) A photograph that depicts a peace officer as defined by Article 2.12 Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, 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 fire or police civil service hearing or a case in arbitration; or

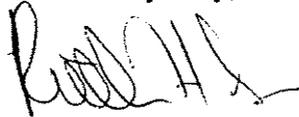
(3) the photograph is introduced as evidence in a judicial proceeding.

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

Assuming that none of the exceptions to non-disclosure listed in section 552.119(a) apply to the police officer whose photograph you seek to withhold and that the officer has not consented to the release of his photograph, we conclude that the department must withhold the photograph pursuant to section 552.119 of the Government Code, but only to the extent that the photograph depicts the police officer in a manner that he could be identified. The department must release the remaining portions of the photograph to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/RWP/ch

Ref.: ID# 118731

cc: Mr. Ray Whitley  
2214 Main  
Dallas, Texas 75201-4324  
(w/o enclosures)