



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 3, 2010

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2010-01664

Dear Mr. Bounds:

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# 369255.

The City of Corpus Christi (the "city") received a request for the employment date and photograph of five named officers. You claim the submitted information is excepted from disclosure under sections 552.108, 552.119, and 552.151 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note portions of the submitted information are subject to section 552.022 of the Government Code. Section 552.022 provides in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure under [the Act] unless they are expressly confidential under other law:

...

(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)(1), (2). A portion of the submitted information consists of the dates of employment of the officers at issue. This information is subject to section 552.022(a)(2), and may be withheld only if it is confidential under other law. Although you claim section 552.108 for this information, section 552.108 is a discretionary exception to disclosure that protects a governmental body's interests, and therefore is not other law for purposes of section 552.022(a)(2). Accordingly, information subject to section 552.022(a)(2) may not be withheld under section 552.108. However, section 552.151 of the Government Code is other law for the purposes of section 552.022 (a)(2). Therefore,

we will consider your argument under this exception with respect to the dates of employment of the officers at issue.

We now turn to your argument against release of the submitted photographs. Section 552.119 of the Government Code provides as follows:

(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, release of the photograph would endanger the life or physical safety of a peace officer. You state the officers depicted in the submitted photographs were involved in an incident that is related to this request. You explain the city's police department received threatening comments and remarks about these officers and their alleged conduct during the incident. You also provide documentation showing threats have been made against the officers whose photographs are at issue. You state none of the exceptions to the applicability of section 552.119 are present in this instance. You indicate none of the officers have consented to the disclosure of the photographs. We find you have demonstrated release of the photographs at issue will endanger the life or physical safety of the officers at issue. Therefore, we conclude the submitted photographs must be withheld under section 552.119 of the Government Code.

We now turn to your argument against release of the dates of employment of the officers at issue under section 552.151 of the Government Code. Section 552.151 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.

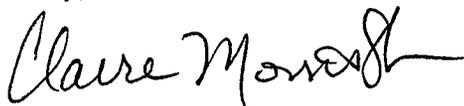
Gov't Code § 552.151. In this instance, you argue release of the employment dates would place the officers at issue under a substantial threat of harm because the individuals who have made threats against the officers could link the information with the identities of the officers. Upon our review, however, we find you have not demonstrated how release of an officer's employment date would subject the officers at issue to a substantial threat of physical harm. Accordingly, the city may not withhold any of the remaining information at issue under section 552.151 of the Government Code.

In summary, the city must withhold the submitted photographs under section 552.119 of the Government Code. The remaining responsive information must be released.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jb

Ref: ID# 369255

Enc. Submitted documents

c: Requestor
(w/o enclosures)