



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 14, 2012

Ms. Judi S. Rawls  
Beaumont Police Department  
P.O. Box 3827  
Beaumont, Texas 77704-3827

OR2012-03790

Dear Ms. Rawls:

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# 449360.

The Beaumont Police Department (the "department") received a request for scene photographs of a specified traffic accident. You state the department has released some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.119, and 552.130<sup>1</sup> of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 143.090 of the Local Government Code. You state the City of Beaumont is a civil service city under chapter 143 of the Local Government Code. Section 143.090 provides as follows:

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:

(1) the officer has been charged with an offense by indictment or by information;

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<sup>1</sup>Based on the substance of your arguments, we understand you to raise section 552.130 of the Government Code for some of the submitted information.

- (2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;
- (3) the photograph is introduced as evidence in a judicial proceeding;  
or
- (4) the officer gives written consent to the release of the photograph.

Local Gov't Code § 143.090. You state the submitted information includes photographs of police officers. You do not indicate the police officers depicted in the submitted photographs have provided the department with written consent regarding the release of the photographs. You do not inform us, and it does not appear, that any of the exceptions to withholding a photograph under section 143.090 are applicable. Therefore, we conclude the department must withhold the photographs containing police officers under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. However, the remaining photographs, which include only photographs of a driver's license, do not depict police officers and may not be withheld under section 552.101 of the Government Code on this basis.

You also assert the submitted photographs are excepted from disclosure under section 552.119 of the Government Code. Section 552.119 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. Upon review, we find none of the remaining photographs depict a peace officer. Therefore, none of the remaining photographs may be withheld under section 552.119 of the Government Code.

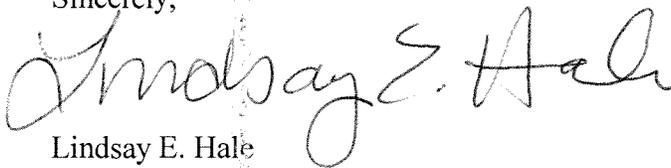
Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country and information related to a motor vehicle title or registration issued by an agency of this state or another state or country. *Id.* § 552.130. However, we note section 552.130 is designed to protect the privacy of individuals, and the right to privacy expires at death. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref'd n.r.e.); *see also* Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). The remaining photographs are of a driver's license that pertains to a deceased individual. Accordingly, these remaining photographs may not be withheld under section 552.130 of the Government Code.

In summary, the department must withhold the photographs containing police officers under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. The department must release the remaining information.

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](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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/ag

Ref: ID# 449360

Enc. Submitted documents

c: Requestor  
(w/o enclosures)