

Opinion No. 2012-111

August 29, 2012

John M. Wrenn
Parking Enforcement Coordinator
701 West Markham
Little Rock, Arkansas 72201

Dear Mr. Wrenn:

You have requested my opinion regarding the Arkansas Freedom of Information Act (“FOIA”). Your request is based on A.C.A. § 25-19-105(c)(3)(B)(i) (Supp. 2011). This subsection authorizes the custodian, requester, or the subject of personnel or employee evaluation records to seek an opinion from this office stating whether the custodian’s decision regarding the release of such records is consistent with the FOIA.

Your letter indicates that a member of the press has requested the name, salary, job title, and department of all City of Little Rock employees who make more than a certain amount per hour. The custodian intends to release this information as it pertains to you. But you object to the release of your name—though not the other pieces of information—because you are concerned about the probability that the press member will publish the information in some form, which will make it easier for certain members of the public to harass you. You say that the legislatures of Florida and Georgia “are introducing legislation to protect” certain public employees from the kinds of harassment you are concerned about. You ask whether, in light of these concerns, the Arkansas FOIA requires your name be omitted from the material the custodian intends to disclose.

RESPONSE

In my opinion, the custodian’s decision to release your name is consistent with the FOIA. As I have frequently opined, the names of public employees qualify as

“personnel records” under the FOIA.¹ That means the names must be released unless doing so constitutes a “clearly unwarranted invasion of personal privacy.”² I have opined that because the release of employees’ names does not rise to that level, names are not shielded from disclosure under the FOIA.

In your case, you make a specific argument that the release of your name raises your risk of physical or financial harm. Presumably, your argument would be that, in light of this risk, the release of your name *would be* a clearly unwarranted invasion of personal privacy. Last year I addressed a similar argument when I concurred with the analysis of my predecessor regarding the release of an employee’s name under circumstance where the employee was concerned about a risk of harm from an ex-spouse. (Please see Opinion No. 2011-058, which I have enclosed for your reference.) The legislature has not seen fit to establish a generalized “harassment exception” or a generalized “increased risk of harm exception” to release of public employees’ names. It is up to the legislature to clearly fashion such an exception if the legislature sees fit.

Assistant Attorney General Ryan Owsley prepared this opinion, which I hereby approve.

Sincerely,

DUSTIN MCDANIEL
Attorney General

DM/RO:cyh

Enclosure

¹ *E.g.*, Op. Att’y Gen. 2011-058.

² *Id.*, citing A.C.A. § 25-19-105(b)(12).