



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 12, 2007

Mr. Rashaad V. Gambrell
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2007-14793

Dear Mr. Gambrell:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 293078.

The Houston Police Department (the "department") received a request for (1) all affidavits on file related to the release of officer photographs created since April 1, 2007, (2) individual photographs of department officers, except those working in an undercover capacity, listed on pages 1 through 119 of the instant request, and (3) the individual photograph of any non-undercover officer not listed in item 2 of the instant request. You state that "photographs of the chief of police, executive assistant chiefs, assistant chiefs, and those officers who regularly appear before the media will be made available to the requestor." Additionally, you state that you will also make available the photograph of any civilian listed in item 2 of the instant request, as well as all affidavits requested in item 1. You claim that the submitted information is excepted from disclosure under section 552.119 of the Government Code. We have considered your claimed exception and reviewed the submitted information.¹

¹We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

This office issued a ruling that involved the same information that is at issue here. In Open Records Letter No. 2007-009569 (2007), we considered a request that the department received for “[p]hotos of all [department] officers, except those in intelligence gathering or undercover operations.” Despite the changed wording of the new request, the information requested is the same. Because the facts and circumstances surrounding that ruling do not appear to have changed, you must comply with our prior ruling as a previous determination and withhold the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (criteria of previous determination regarding specific information previously ruled on).

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.352(b)(2), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Crawford".

Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/sdk

Ref: ID# 293078

Enc. Submitted documents

c: Mr. Stephen D. Bivens
KTRK-TV
ABC-Channel 13
3310 Bissonett
Houston, Texas 77005
(w/o enclosures)