



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 18, 2008

Ms. Evelyn W. Njuguna
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77151-1562

OR2008-12876

Dear Ms. Njuguna:

~~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# 322057.~~

The Houston Police Department (the "department") received a request for all department policies and directives concerning illegal immigrants and communication with federal immigration officials. You state you have released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that some of the submitted information, General Order 500-08, was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2007-00818 (2007). In that decision, we ruled that General Order 500-08 must be released. *See* Open Records Decision No. 673 (2001) (explaining circumstances under which the first type of previous determination exists). Section 552.007 of the Government Code prohibits selective disclosure of information that a governmental body has voluntarily made available to any member of the public. Such information "must be made available to any person," unless the information is expressly prohibited by law or confidential under law. *See* Gov't Code § 552.007(a) and (b). Since General Order 500-08 has already been released by the department and it is not otherwise confidential, it may not be withheld from disclosure. As our ruling for General Order 500-08 is dispositive, we need not reach

your arguments for this information other than to note that information that was previously released to the public may not now be withheld under section 552.108 of the Government Code. *See id.* § 552.007(b).

Next, you inform us that the remaining submitted information was the subject of another previous request for information, in response to which this office issued Open Records Letter No. 2008-12754 (2008). There is no indication that the law, facts, and circumstances on which this prior ruling was based have changed. Therefore, the department may continue to rely on Open Records Letter No. 2008-12754 as a previous determination for the remaining submitted information and withhold or and release the remaining information in accordance with Open Records Letter No. 2008-12754. *See* ORD 673. As we are able to make this determination, we do not address your arguments.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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).

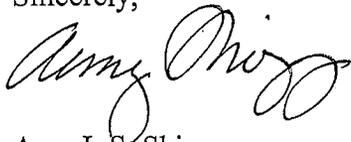
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 challenge 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/jb

Ref: ID# 322057

Enc. Submitted documents

c: Mr. Christopher J. Farrell
Judicial Watch, Inc.
501 School Street, South West
Washington, DC 20024
(w/o enclosures)