



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2014

Ms. Evelyn W. Kimeu
Staff Attorney
Houston Police Department
1200 Travis
Houston, Texas 77002-6000

OR2014-14682

Dear Ms. Kimeu:

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# 533438 (ORU No. 14-3401).

The Houston Police Department (the "department") received a request for all discovery documents, audio recordings, and video recordings pertaining to a specified citation number. You claim the submitted information is excepted from disclosure under section 552.119 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted a dash camera video recording. We assume, to the extent any information responsive to the remainder of the request existed on the date the department received the request, the department has released it. If the department has not released any such information, it must do so at this time. *See Gov't*

¹We note, and the department acknowledges, the department failed to comply with the procedural requirements of section 552.301(b) of the Government Code by failing to meet its 10-business-day deadline. *See Gov't Code* § 552.301(b) (requiring a governmental body to ask for the attorney general's decision and to state the exceptions that apply within ten business days of receiving the written request). Nonetheless, the applicability of section 552.119 of the Government Code can constitute a compelling reason sufficient to overcome the presumption of openness caused by the failure to comply with section 552.301. *See id.* §§ 552.007, .302. Therefore, we will address the department's assertion under this exception.

Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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, or a security officer commissioned under Section 51.212, Education Code, 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 fire or police civil service hearing or a case in arbitration; or
- (3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph exempt from disclosure under Subsection (a) may be made public only if the peace officer or security 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. Upon review of your arguments, we find the department has failed to demonstrate release of the video recording at issue would endanger the life or physical safety of a peace officer. Accordingly, we find the department may not withhold the submitted video recording under section 552.119 of the Government Code. As you raise no other exceptions to disclosure, the department must release the submitted video recording.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Megan G. Holloway". The signature is written in a cursive style with a large, looping flourish at the end of the word "Holloway".

Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/akg

Ref: ID# 533438

Enc: Submitted documents

c: Requestor
(w/o enclosures)