



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 30, 2009

Ms. YuShan Chang
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2009-13718

Dear Ms. Chang:

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# 356835.

The Houston Police Department (the "department") received a request for the video recording of the booking of a named individual. You claim the requested information is excepted from disclosure under section 552.119 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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, that release of the photograph would endanger the life or physical safety of a peace officer. In this instance, you assert that release of the submitted video recording would endanger the lives of the officers depicted in the video recording. You also have submitted affidavits from two officers depicted in the video recording, who contend that release of their images could endanger their lives or physical safety. In the submitted affidavits, the officers claim that release of their images from the submitted video recordings would endanger their lives or physical safety because the video recording may be used to identify the officers to carry out potential retaliatory action against them. The officers also argue that their images should not be released because the department may call on them at any time to work in an undercover capacity. Based on these representations, we find that you have demonstrated that release of these two officers' images on the submitted video recording would endanger the life or physical safety of these two officers. Furthermore, none of the exceptions to section 552.119 appears to apply. Therefore, to the extent these two officers appear in the submitted video recording, these officers' images must be redacted under section 552.119 of the Government Code. However, if the department does not have the technological capability to redact the portions of the submitted video recording that contain these two officers' images, then the submitted video recording must be withheld in its entirety. We find that the department has failed to demonstrate that release of the remainder of the submitted video recording would endanger the remaining officers' lives or physical safety. Accordingly, the remaining information may not be withheld under section 552.119, and, as no other exceptions are raised, the remaining information must be released to the requestor.

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, 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,

A handwritten signature in cursive script, appearing to read "Amy Shipp".

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

ALS/rl

Ref: ID# 356835

Enc. Submitted documents

cc: Requestor
(w/o enclosures)