



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 13, 2014

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

OR2014-02807

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# 514243 (ORU Nos. 13-7211 and 13-7232).

The Houston Police Department (the "department") received two requests for copies of receipts for money withdrawn and returned in regards to two specified vice operations. You claim the requested 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 portions of the submitted information are not responsive to the instant requests for information because they do not consist of information pertaining to the specified vice operations. This ruling does not address the public availability of non-responsive information, and the department is not required to release such information in response to the requests.

Next, we note the responsive information is subject to section 552.022 of the Government Code. Section 552.022(a) provides in part:

(a) the following categories of information are public information and not excepted from required disclosure unless made confidential under [the Act] or other law:

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The responsive information consists of information in an account, voucher, or contract relating to the receipt and expenditure of public funds, which is subject to subsection 552.022(a)(3). The department must release this information unless it is expressly confidential under the Act or other law. Although you raise section 552.108 of the Government Code for this information, this is a discretionary exception and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 (1977) (governmental body may waive statutory predecessor to section 552.108). Therefore, the department may not withhold any of the information subject to section 552.022(a)(3) under section 552.108. Because section 552.152 of the Government Code makes information confidential under the Act, we will consider the applicability of this section to the responsive information.¹

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You indicate the release of the undercover officers' identities would subject the officers to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to some of the information at issue. Accordingly, we conclude the department must withhold the officer identifying information, which we have marked, under section 552.152 of the Government Code. As you raise no further exceptions to disclosure, the remaining responsive information must be released.

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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 cursive script that reads "Paige Lay".

Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 514243

Enc. Submitted documents

cc: Requestor
(w/o enclosures)