



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 2, 2017

Ms. Kristie L. Lewis
Staff Attorney
Houston Police Department
1200 Travis, 21st Floor
Houston, Texas 77002-6000

OR2017-02324

Dear Ms. Lewis:

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# 644186 (ORU No. 16-9191).

The Houston Police Department (the "department") received a request for a specified department general order. You claim the requested information is excepted from disclosure under sections 552.101 through 552.153 of the Government Code. We have considered the exceptions you claim.

We must address the department's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e) of the Government Code, a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See Gov't Code* § 552.301(e). The department received the request for information on November 11, 2016, which we understand was a City of Houston holiday for Veterans Day. This office does not count the date the request was received or holidays for the purpose of calculating a governmental body's deadlines under the Act. Therefore, we consider the request as having been received on the next business day, November 14, 2016. As of the date of this letter, you have not

submitted to this office arguments explaining why the stated exceptions apply or a copy or representative sample of the information requested. Accordingly, we conclude the department failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). A compelling reason generally exists when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). Because you failed to comply with the requirements of the Act, you have waived all of your claimed discretionary exceptions to disclosure. *See* Open Records Decision No. 665 at 2 n.5 (2000) (untimely request for decision results in waiver of discretionary exceptions). Although you raise mandatory exceptions to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure or confidential by law. Thus, we have no choice but to order the requested information released pursuant to section 552.302 of the Government Code. If you believe the information is confidential and may not be lawfully released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

Ref: ID# 644186

c: Requestor