



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 27, 2011

Mr. Don Cheatham  
General Counsel  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2011-07531

Dear Mr. Cheatham:

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# 418931 (GC No. 18403).

The Houston Police Department (the "department") received a request for ten categories of information related to breath alcohol testing and driving while intoxicated investigations.<sup>1</sup> You claim some of the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim.

Initially, we note you have only submitted information pertaining to category four of the request for information. To the extent any information responsive to the remaining categories of the request existed and were maintained by the department on the date the department received the request, we assume you have released it. If you have not released this information, you must do so at this time. *See* Gov't Code §§ 552.301(a), 302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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<sup>1</sup>We note the department sought and received clarification regarding the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

You inform us the requested department General Order 500-01 was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2011-06183 (2011). You state the law, facts, and circumstances on which the prior ruling was based have not changed. Thus, we agree the department may continue to rely on Open Records Letter No. 2011-06183 and withhold or release General Order 500-01 in accordance with it.<sup>2</sup> See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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](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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 418931

No enclosures

c: Requestor

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<sup>2</sup>As our determination is dispositive, we need not address your argument against disclosure.