



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 4, 2014

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

OR2014-13522

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# 531508 (HPD ORU No. 14-3119).

The Houston Police Department (the "department") received a request for (1) a copy of any policy or explanation for the purpose of the Differential Response Team ("DRT"); (2) the names of the DRT members as of August 8, 2013; (3) e-mails and written field notes by two named department officers relating to a specified inspection for a specified time period; (4) photographs relating to a specified investigation; (5) inspection documents for a specified time period; (6) documents relating to a specified incident; (7) a copy of a specified search warrant affidavit; and (8) a copy of each DRT Inspection Form issued by a specified officer for a specified time period. You state you have released some information to the requestor. You claim the remaining 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.

You inform us some of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2014-03699

(2014).<sup>1</sup> We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the department may rely on Open Records Letter No. 2014-03699 as a previous determination and withhold or release the identical information in accordance with that ruling. *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). To the extent the submitted information is not subject to Open Records Letter No. 2014-03699, we will address your argument against disclosure.

Section 552.108 of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state, and provide documentation showing, the submitted information pertains to an open and active criminal prosecution. Based upon this representation, we find the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department may rely on Open Records Letter No. 2014-03699 as a previous determination and withhold or release the identical information in accordance with that ruling. The department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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<sup>1</sup>In Open Records Letter No. 2014-03699, we determined that to the extent the requested information is identical to the information previously requested and ruled upon, the department must continue to rely on Open Records Letter Nos. 2013-16770 (2013) and 2013-14955 (2013), as previous determinations, and withhold or release the previously ruled upon information in accordance with them. Open Records Letter No. 2014-03699 also concluded the department may withhold certain information under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege; and with the exception of the notices of violations and basic information, the department may withhold certain information under section 552.108(a)(1) of the Government Code. The remaining 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](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,



Cristian Rosas-Grillet  
Assistant Attorney General  
Open Records Division

CRG/dls

Ref: ID# 531508

Enc. Submitted documents

c: Requestor  
(w/o enclosures)