



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2014

Ms. Mareia L. Schreiber
Senior Paralegal
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR2014-18366

Dear Ms. Schreiber:

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#539311 (Galveston PIR# 14-377).

The Galveston Police Department (the "department") received a request for (1) information pertaining to case number 14-02032; (2) all e-mails sent to or received by two named individuals since January 1, 2014; (3) personnel records of a named individual; (4) documents detailing any communications between members of the department that include mention of any one of two named individuals since January 1, 2014; and (5) any sustained internal affairs investigations since January 1, 2012. You state the department does not have information responsive to a portion of the request.¹ You state you have released some information to the requestor. You claim portions of the requested information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

You inform us the information pertaining to case number 14-02032 was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-10490 (2014). In that decision, we ruled that, with the exception of basic information, which must be released, the requested information was excepted from disclosure under section 552.108(a)(1) of the Government Code. As you inform us that the law, facts, and circumstances on which the prior ruling was based have not changed, the department may continue to rely on that ruling as a previous determination and continue to withhold or release the requested information in accordance with that decision. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when records or information at issue are precisely same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); governmental body which received request for records or information is same governmental body that previously requested and received ruling from attorney general; prior ruling concluded that precise records or information are or are not excepted from disclosure under Act; and law, facts, and circumstances on which prior ruling was based have not changed since issuance of ruling). We will address your arguments against disclosure of the remaining submitted information, which is not subject to Open Records Letter No. 2014-10490.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the information at issue 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, 710 (Tex. 1977). The department states the information at issue relates to pending criminal investigations or prosecutions. Based on this representation, we conclude 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, 186-87 (Tex. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code.³

In summary, the department may continue to rely on Open Records Letter No. 2014-10490 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. The department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/dls

Ref: ID# 539311

Enc. Submitted documents

c: Requestor
(w/o enclosures)