



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2020

Ms. Jacqueline E. Hojem
Public Information Coordinator
Metropolitan Transit Authority of Harris County, Texas
P.O. Box 64129
Houston, Texas 77208-1429

OR2020-22702

Dear Ms. Hojem:

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# 843306 (MTA TPIA No. 2020-0483; Requestor No. 53-05X4-84M).

The Metropolitan Transit Authority of Harris County, Texas, (the "authority") received a request for information pertaining to a specified accident. The authority claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the authority claims and reviewed the submitted information.

Initially, we note the requested information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2020-09392 (2020). In that ruling, we determined, with the exception of the basic information, the authority may withhold the submitted information under section 552.108(a)(1) of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the authority may rely on Open Records Letter No. 2020-09392 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). However, to the extent the information in the instant request is not identical to

the information ruled upon by this office in Open Records Letter No. 2020-09392, we will address the authority's arguments against disclosure.

Section 552.108(a)(1) 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). A governmental body claiming section 552.108(a)(1) must 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). The authority states the submitted information pertains to an active criminal investigation being conducted by the authority’s police department. Based on the authority’s representation and our review, we conclude 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). Accordingly, we conclude the authority may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

In summary, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the authority may rely on Open Records Letter No. 2020-09392 as a previous determination and withhold or release the identical information in accordance with that ruling. The authority may withhold the submitted information under section 552.108(a)(1) 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

¹ As we are able to make this determination, we do not address the applicability of section 1701.661(a) of the Occupations Code to the submitted video recordings. *See generally* Occ. Code § 1701.661(a), (e).

Ref: ID# 843306

Enc. Submitted documents

c: Requestor
(w/o enclosures)