



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 6, 2017

Mr. Ryan D. Pittman
Counsel for the City of Frisco
Abernathy, Roeder, Boyd & Hullett, P.C.
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75070-1210

OR2017-12311

Dear Mr. Pittman:

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# 660668 (Ref. No. P016517-031517).

The Frisco Police Department (the "department"), which you represent, received a request for the body worn camera recording pertaining to a specified incident. You claim the submitted information is subject to a previous request for a ruling. Alternatively, you claim the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-02253 (2017). In that ruling, we determined, in part, the requestor did not properly request the body worn camera recording at issue pursuant to chapter 1701 of the Occupations Code and the department need not release the submitted body camera video recording in response to the request for information. We note the requestor in this instance has provided the requisite information under section 1701.661(a) of the Occupations Code; thus, the body worn camera recording at issue in the present request was properly requested pursuant to chapter 1701. Therefore, we find there is a change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the department may not rely on Open Records Letter No. 2017-02253 as a previous determination. *See* Open Records Decision No. 673 (2001)

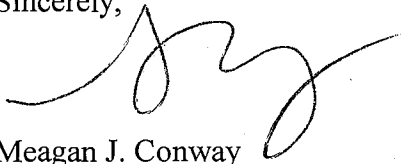
(so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Accordingly, we will consider your arguments against release of the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information relates to a closed case that did not result in conviction or deferred adjudication. Based on your representation and our review, we agree section 552.108(a)(2) is applicable to the submitted information. Therefore, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.¹

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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/sb

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

Ref: ID# 660668

Enc. Submitted documents

c: Requestor
(w/o enclosures)