



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 10, 2019

Ms. Amy L. Sims
Deputy City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR2019-18725

Dear Ms. Sims:

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# 774285 (File No. 2268).

The City of Lubbock (the "city") received a request for body worn camera recordings and reports related to a specified incident. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the requestor seeks only body worn camera recordings and reports related to a specified incident. Accordingly, the submitted dashboard camera recording is not responsive to the request and the city need not release that information in response to this request.

Next, we note some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter

¹Although you also raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

No. 2019-04260 (2019). In that ruling, we determined, in part, with the exception of basic information, which must be released, the city may withhold the incident reports pursuant to rule 552.108(a)(2) of the Government Code. As we have no indication the law, facts, or circumstances upon which the prior ruling was based have changed, the city must continue to rely on Open Records Letter No. 2019-04260 as a previous determination and withhold or release the identical information at issue in accordance with that ruling.² *See* Open Records Decision No. 673 (2001) (so long as the law, facts, and circumstances upon which prior ruling is 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). As the requestor properly requested the submitted body worn camera recordings, we will consider the city's argument against disclosure of this information. *See* Occupations Code § 1701.661(a).

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 remaining responsive 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 information at issue. The city may withhold the information at issue under section 552.108(a)(2) of the Government Code.

In summary, the city must continue to rely on Open Records Letter No. 2019-04260 as a previous determination and withhold or release the identical information at issue in accordance with that ruling. The city may withhold the remaining information under section 552.108(a)(2) 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 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

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'SMC', written in a cursive style.

Sean McCormick
Attorney
Open Records Division

SMC/eb

Ref: ID# 774285

Enc. Submitted documents

c: Requestor
(w/o enclosures)