



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 18, 2019

Mr. Mark G. Mann
Senior Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2019-19651

Dear Mr. Mann:

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# 783781 (ORR# GCA19-0538).

The Garland Police Department (the "department") received a request for information pertaining to a specified incident. You state you released some information. You claim some of the submitted 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.

Initially, you indicate 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. 2019-18050 (2019). In that ruling, we determined (1) the submitted body worn camera video at issue was not properly requested pursuant to chapter 1701 of the Occupations Code and need not be released, (2) the department may withhold the information you marked under section 552.108(a)(1) of the Government Code, (3) the department must withhold the information you marked under section 552.130 of the Government Code, and (4) the department must release the remaining information. We note the body worn camera video is now properly requested under section 1701.661(a) of the Occupations Code. Thus, we

find the circumstances have changed in regard to this information, and the department may not rely on Open Records Letter No. 2019-18050 as a previous determination in this instance. *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, we have no indication the law, facts, or circumstances on which the previous ruling was based have changed with respect to the remaining information at issue in Open Records Letter No. 2019-18050. Therefore, we conclude the department may rely on Open Records Letter No. 2019-18050 as a previous determination and withhold or release the remaining information in accordance with that ruling. To the extent the information at issue is not encompassed by the previous ruling, we will address the arguments against its 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). You state the information you marked pertains to an active criminal investigation or prosecution. Based on your 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 (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). Thus, the department may withhold the information you marked under section 552.108(a)(1) of the Government Code.

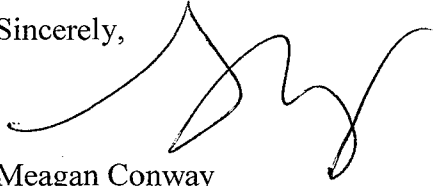
In summary, the department may rely on Open Records Letter No. 2019-05905 as a previous determination and withhold or release certain information in accordance with that ruling. The department may withhold the information you marked under section 552.108(a)(1) of the Government Code. The department must release the remaining 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 <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,

A handwritten signature in black ink, appearing to be 'Meagan Conway', written in a cursive style.

Meagan Conway
Assistant Attorney General
Open Records Division

MC/eb

Ref: ID# 783781

Enc. Submitted documents

c: Requestor
(w/o enclosures)