



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2019

Ms. Andrea D. Russell
Counsel for the City of Euless
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2019-25153

Dear Ms. Russell:

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# 784370.

The City of Euless (the "city"), which you represent, received a request for eight categories of information pertaining to a specified accident. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.1085 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note 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. 2019-19136 (2019). In that ruling, we determined, in pertinent part, (1) the submitted body worn camera recordings were not properly requested pursuant to chapter 1701 of the Occupations Code and need not be released and (2) with the exception of basic information, the city may withhold some remaining information under section 552.103 of the Government Code. We note the majority of the body worn camera recordings are 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 city may not rely on Open Records Letter No. 2019-19136 as a previous determination in this instance for the body worn camera recordings. *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. Therefore, we conclude the city may rely on Open Records Letter No. 2019-05905 as a previous determination and

withhold or release the remaining information at issue in accordance with that ruling.¹ Accordingly, we will address the city's arguments against disclosure of the body worn camera videos and consider your arguments for the submitted information that is not subject to the previous ruling.

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. 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); Open Records Decision No. 434 (1986). You state the remaining information pertains to a criminal investigation that did not result in conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the remaining information. Accordingly, the city may withhold the remaining information under section 552.108(a)(2) of the Government Code.²

In summary, the city may rely on Open Records Letter No. 2019-19136 as a previous determination and withhold or release certain information 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 <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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/be

¹ As our ruling is dispositive, we need not address your remaining argument againsts disclosure of this information.

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

Ref: ID# 784370

Enc. Submitted documents

c: Requestor
(w/o enclosures)