



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 20, 2019

Ms. Cynthia Trevino
Counsel for the City of Copperas Cove
Denton Navarro Rocha Bernal & Zech, PC
2517 North Main Avenue
San Antonio, Texas 78212-4685

OR2019-32803

Dear Ms. Trevino:

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# 805156 (Ref. No. W005648).

The City of Copperas Cove (the "city"), which you represent, received a request for 1) phone calls between specified individuals during a specified time period, and 2) three categories of information pertaining to a specified incident. You state you do not have information responsive to portions of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state some of the requested information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2019-21537 (2019). In that ruling, we held 1) with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code, and 2) in releasing basic information, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. You state the law, facts, or circumstances on which the prior ruling was based have not changed. Thus, the city must continue to rely on Open Records Letter No. 2019-21537 as a previous determination and withhold or release the information at issue 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

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

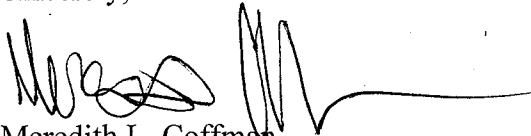
Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to 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 submitted 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 submitted information. Accordingly, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.²

In summary, the city must continue to rely on Open Records Letter No. 2019-21537 as a previous determination and withhold or release the information at issue in accordance with that ruling. The city may withhold the submitted 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,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/gw

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

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Enc. Submitted documents

c: Requestor
(w/o enclosures)