



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 15, 2020

Mr. Joseph G. Hays
Mr. Tyrone Lin
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2020-13864

Dear Mr. Hays and Mr. Lin:

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# 828511 (GC Nos. 26535, 26536, 26566, 26574, and 26575).

The City of Houston (the "city") received five requests from different requestors for certain information pertaining to a specified incident.¹ You state the city does not have information responsive to portions of the requests.² You claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. Additionally, you state, and provide documentation showing, you have notified the United States Department of Justice Bureau of Alcohol, Tobacco, Firearms, and Explosives (the "bureau") of its right to submit comments to this office explaining why the submitted

¹ You state, and provide documentation demonstrating, the city sought and received clarification of the information requested with respect to two of the present requests. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

² The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

information should not be released.³ *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exceptions you claim and reviewed the submitted information.

We note the submitted information was the subject of a previous request for a ruling, in response to which this office issued Open Records Letter No. 2020-12676 (2020). In that ruling, we determined that the city may withhold the information at issue under section 552.103 of the Government Code. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, the city may continue to rely on Open Records Letter No. 2020-12676 as a previous determination and withhold the submitted information in accordance with that ruling.⁴ *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).

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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/jlbm

Ref: ID# 828511

Enc. Submitted documents

c: 6 Requestors
(w/o enclosures)

³ As of the date of this letter, this office has not received comments from the bureau explaining why any portion of the submitted information should not be released.

⁴ As we are able to make this determination, we need not address your arguments against disclosure of the submitted information.