



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 24, 2020

Mr. Michael T. Garner
Assistant City Attorney
City of Conroe
P.O. Box 3066
Conroe, Texas 77305

OR2020-18458

Dear Mr. Garner:

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# 839454.

The City of Conroe (the "city") received a request for all information pertaining to a specified incident. You claim 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.

We note 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. 2020-13635 (2020). In that ruling, we determined the city need not release the body worn camera recordings at issue as they were not properly requested pursuant to section 1701.661 of the Occupations Code and, with the exception of the basic information, may withhold the remaining information under section 552.108(a)(2) of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the prior ruling was based. Accordingly, we conclude the city may continue to rely on Open Records Letter No. 2020-13635 as a previous determination and withhold the identical information 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 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). We will address your submitted arguments against disclosure of the submitted information.

Section 552.108(a)(2) of the Government Code exempts 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 submitted information relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Accordingly, we find the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.

In summary, the city must rely on Open Records Letter No. 2020-13635 and withhold or release the identical information 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,

Melanie Villars
Assistant Attorney General
Open Records Division

MJV/rm

Ref: ID# 839454

Enc. Submitted documents

c: Requestor
(w/o enclosures)