



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 6, 2020

Mr. Joseph J. Gorfida  
Counsel for the City of Desoto  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Ross Tower  
500 North Akard  
Dallas, Texas 75201

OR2020-30402

Dear Mr. Gorfida:

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# 856692 (ORR# 118184).

The City of Desoto (the "city"), which you represent, received a request for information pertaining to a specified incident. The city claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, the city informs the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2020-22752 (2020). With the exception of the submitted body worn camera recordings, we have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, with the exception of the submitted body worn camera recordings, the city must rely on Open Records Letter No. 2020-22752 as a previous determination and withhold or release the identical information in accordance with that ruling.<sup>1</sup> However, we find the law, facts, or circumstances regarding the submitted body worn camera recordings

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<sup>1</sup> 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).

have changed. Therefore, we will address the city's arguments against the release of this information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The city states the body worn camera recordings at issue pertain to a case that concluded in a result other than conviction or deferred adjudication. Therefore, the city may withhold the submitted body worn camera recordings under section 552.108(a)(2) of the Government Code.

In summary, the city may withhold the submitted body worn camera recordings under section 552.108(a)(2) of the Government Code. The city must rely on Open Records Letter No. 2020-22752 as a previous determination and withhold or release the remaining information in accordance with that ruling.

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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/jm

Ref: ID# 856692

Enc. Submitted documents

c: Requestor  
(w/o enclosures)