



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 15, 2016

Mr. Kenny Seymour  
Chief of Police  
Fulshear Police Department  
P.O. Box 279  
Fulshear, Texas 77441

OR2016-18386

Dear Mr. Seymour:

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# 622585.

The Fulshear Police Department (the "department") received a request for the video associated with a specified arrest of a named individual. 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.

Article 2.139 of the Code of Criminal Procedure, as added by House Bill 3791 by the 84th Texas Legislature,<sup>1</sup> provides:

A person stopped or arrested on suspicion of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, is entitled to receive from a law enforcement agency employing the peace officer who made the stop or arrest a copy of any video made by or at the direction of the officer that contains footage of:

- (1) the stop;
- (2) the arrest;

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<sup>1</sup>Act of May 30, 2015, 84th Leg., R.S., ch. 1124, § 1 (codified at Crim. Proc. Code art. 2.139).

(3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test; or


(4) a procedure in which a specimen of the person's breath or blood is taken.

Crim. Proc. Code art. 2.139. We note the submitted information consists of a video recording made by or at the direction of officers employed by the department that contains footage of the requestor's client being stopped or arrested on suspicion of an offense under section 49.04 of the Penal Code. Penal Code § 49.04 (person commits offense if person is intoxicated while operating motor vehicle in public place). Therefore, the requestor is entitled to receive a copy of this video recording pursuant to article 2.139. Although the department asserts section 552.108 to withhold this information, a statutory right of access prevails over the Act's general exceptions to public disclosure. *See, e.g.*, Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Because section 552.108 is a general exception under the Act, the requestor's statutory access under article 2.139 prevails and the department may not withhold the video recording at issue under section 552.108 of the Government Code. As no further exceptions to disclosure have been raised, the department must release the submitted video recording to the requestor pursuant to article 2.139 of the Code of Criminal Procedure.

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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MJC/akg

Ref: ID# 622585

Enc. Submitted documents

c: Requestor  
(w/o enclosures)