



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 27, 2016

Ms. Monique Campbell
Records Custodian
Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2016-24039

Dear Ms. Campbell:

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# 632053.

The Leander Police Department (the "department") received a request for the video recording of an arrest of a named individual on a specified date. 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.

Initially, we note some of the submitted information, which we have indicated, is not responsive to the instant request because it does not consist of the video recording of the arrest of the named individual. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.

Article 2.139 of the Code of Criminal Procedure 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;
- (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. The submitted responsive information contains video recordings made by or at the direction of an officer employed by the department that contain 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 the video recordings at issue pursuant to article 2.139 of the Code of Criminal Procedure. Although you assert section 552.108 of the Government Code 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 recordings at issue under section 552.108. Accordingly, the submitted responsive video recordings must be released pursuant to article 2.139.¹

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, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

¹As our ruling is dispositive, we need not address your argument against disclosure of this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Pounds', written in a cursive style.

Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/akg

Ref: ID# 632053

Enc. Submitted documents

c: Requestor
(w/o enclosures)