



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

February 14, 2017

Mr. Whitt L. Wyatt  
Counsel for the City of Allen  
Nichols, Jackson, Dillard, Hager & Smith, LLP  
1800 Ross Tower  
500 North Akard Street  
Dallas, Texas 75201

OR2017-03309

Dear Mr. Wyatt:

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# 645771 (Ref. No. 81615).

The Allen Police Department (the "department"), which you represent, received a request for all audio and/or video recordings pertaining to a specified incident involving the requestor's client. 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 is not responsive to the present request because it does not consist of the requested audio and/or video recordings. This ruling does not address the public availability of the non-responsive information, which we have marked, and the department need not release it 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. We note you have submitted dashboard camera video recordings made by or at the direction of officers 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. *See* Penal Code § 49.04 ("A person commits an offense if the person is intoxicated while operating a motor vehicle in a public place."). Therefore, the requestor is entitled to receive a copy of these video recordings 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. As you raise no further exceptions against disclosure of this information, the video recordings at issue must be released.

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,



Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/bw

Ref: ID# 645771

Enc. Submitted documents

c: Requestor  
(w/o enclosures)