



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 6, 2017

Mr. Ronald B. Collins
Counsel for City of El Campo
Duckett, Boulogny & Collins, L.L.P.
P.O. Box 1567
El Campo, Texas 77437

OR2017-22887

Dear Mr. Collins:

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# 679116 (ORR 2017-639).

The El Campo Police Department (the "department"), which you represent, received a request for information pertaining to a specified offense. You state you have released some information to the requestor. 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 the submitted information is subject to article 2.1396 of the Code of Criminal Procedure, which 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.

Act of May 30, 2017, 85th Leg., R.S., H.B. 245 § 4 (to be codified at Crim Proc. Code art 2.1396). We note the requestor was stopped or arrested on suspicion of an offense under section 49.04 of the Penal Code and the submitted footage subject is to article 2.1396 of the Code of Criminal Procedure. *See* 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 2.1396 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 2.1396 prevails and the department may not withhold the video recording at issue under section 552.108 of the Government Code. Therefore, the department must release the submitted information.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/>

¹We note the requestor has a right of access beyond that of the general public to some of the information being released. *See* Act of May 30, 2017, 85th Leg., R.S., H.B. 245 § 4 (to be codified at Crim Proc. Code art 2.1396); *see also* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates, or that party's representative, solely on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, then the department should again seek a ruling from this office.

[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,

A handwritten signature in black ink that reads "Britni Ramirez". The signature is written in a cursive style with a large, prominent "B" and "R".

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/gw

Ref: ID# 679116

Enc. Submitted documents

c: Requestor
(w/o enclosures)