



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 11, 2017

Lieutenant William Ryan
Pharr Police Department
1900 South Cage
Pharr, Texas 78577

OR2017-23145

Dear Lt. Ryan:

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# 679837 (ORR# P000064).

The Pharr Police Department (the "department") received a request for the video recording related to report number 16-38280. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception the department claims and reviewed the submitted information.

Article 2.1396 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;

¹Although the department does not cite to section 552.108 of the Government Code in its brief, we understand the department to raise this exception based on the substance of its argument.

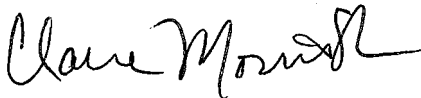
- (2) the arrest;
- (3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test; or
- (4) a procedure in which a specimen of the person's breath or blood is taken.

Act of May 30, 2017, 85th Leg., R.S., H.B. 245, § 4 (to be codified at Crim. Proc. Code art. 2.1396). The submitted information consists of a video recording that was made by or at the direction of an officer employed by the department and contains footage of the requestor 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."). 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), 451 (1986). Because section 552.108 is a general exception under the Act, the requestor's statutory access under article 2.1396 prevails. Therefore, the department may not withhold the video recording at issue under section 552.108 of the Government Code. Thus, the requestor is entitled to receive a copy of the video recording at issue pursuant to article 2.1396 of the Code of Criminal Procedure, and the department must release it to this requestor.

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

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/tdw

Ref: ID# 679837

Enc. Submitted documents

c: Requestor
(w/o enclosures)