



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2017

Ms. Jeannette Huggins
City Secretary
City of Bulverde
30360 Cougar Bend
Bulverde, Texas 78163

OR2017-28288

Dear Ms. Huggins:

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# 687470.

The City of Bulverde (the "city") received a request for video recordings pertaining to a specified arrest. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ We have considered the exceptions 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

¹We note that although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim section 552.101 applies to the submitted information. See Gov't Code §§ 552.301, .302.

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. 2.1396. We note the submitted information consists of videos made by or at the direction of an officer employed by the city's police 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 these video recordings pursuant to article 2.1396. Although you assert the information at issue is excepted from disclosure under section 552.108, a statutory right of access prevails over the Act's general exceptions to public disclosure. *See* 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). We note section 552.108 is a general exception under the Act. Accordingly, the requestor's statutory access under article 2.1396 prevails over the city's argument and the city may not withhold the submitted video recordings under section 552.108 of the Government Code. As no further exceptions to disclosure have been raised, the submitted information must be released to this requestor.²

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/>

²We note the requestor has a right of access to the information being released. *See* Crim. Proc. Code art. 2.1396. Thus, the city must again seek a decision from this office if it receives another request for the same information.

[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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/gw

Ref: ID# 687470

Enc. Submitted documents

c: Requestor
(w/o enclosures)