



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 3, 2019

Mr. Jeffrey E. Cornell
Counsel for the City of Glenn Heights
Nichols, Jackson, Dillard, Hager & Smith, L. L. P.
500 North Akard Street, Suite 1800
Dallas, Texas 75201

OR2019-14522

Dear Mr. Cornell:

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# 768301 (ORR# 106897).

The Glenn Heights Police Department (the "department"), which you represent, received a request for dash camera recordings related to a specified incident involving the requestor. You state you have released some information. You claim some of the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You argue portions of the submitted video recordings are protected by section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Upon review, we agree some of the video recordings contain motor vehicle record information that is generally confidential under section 552.130 of the Government Code.

However, we note 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;
- (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, and you acknowledge, the video recordings at issue were 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.”). A statutory right of access generally prevails over the Act’s general exceptions to disclosure. *See* Open Records Decision Nos. 613 at 4 (1993), 451 (1986). However, because section 552.130 has its own access provisions, we find section 552.130 is not a general exception under the Act. Therefore, we must address the conflict between the confidentiality provided under section 552.130 and the right of access provided under article 2.1396 of the Code of Criminal Procedure. Where information falls within both a general and a specific provision of law, the specific provision prevails over the general, unless the general provision was enacted later and there is clear evidence that the legislature intended the general provision to prevail. *See Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 901 (Tex. 2000) (“more specific statute controls over the more general”); *Cuellar v. State*, 521 S.W.2d 211 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones). In this instance, section 552.130 generally excepts motor vehicle record information maintained in any context, while article 2.1396 specifically provides access to certain video footage pertaining to certain intoxication offense arrests. Thus, we find the access to the video recording at issue provided under article 2.1396 is more specific than the general confidentiality provided under section 552.130. Additionally, we note article 2.1396 is the later enacted statute. *See* Gov’t Code § 311.025(a) (if statutes enacted at different sessions of legislature are irreconcilable, statute latest in enactment prevails). Therefore, we conclude the requestor’s access to the video recordings at issue under article 2.1396 prevails over the confidentiality of section 552.130. Accordingly, the department may not withhold any of the submitted video recordings under section 552.130

of the Government Code. The department must release the submitted video recordings to this requestor pursuant to article 2.1396 of the Code of Criminal Procedure.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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/jxd

Ref: ID# 768301

Enc: Submitted documents

c: Requestor
(w/o enclosures)

¹We note the requestor has a right of access to some of the information being released. Accordingly, if the department receives another request for this same information from a different requestor, the department must again seek a ruling from this office.