



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 18, 2019

Mr. Lance Kennedy
Counsel for the Town of Addison
Messer, Rockefeller & Fort, PLLC
6371 Preston Road, Suite 200
Frisco, Texas 75034

OR2019-16468

Dear Mr. Kennedy:

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# 771129 (TOA ORR ID# W006328).

The Town of Addison (the "town"), which you represent, received a request for all video recordings and the probable cause affidavit related to a specified arrest of the requestor.¹ 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 you have only submitted dashboard and in-car video recordings in response to the request for information. To the extent any additional information responsive to the request existed on the date the town received the request, we assume the town has released it. If the town has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

¹We note the town sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Next, 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.

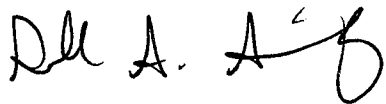
Crim. Proc. Code art. 2.1396. The submitted information consists of video recordings made by or at the direction of a peace officer employed by the town and contains footage of the requestor being stopped or arrested on suspicion of an offense under section 49.04 of the Penal Code. *See* Penal Code § 49.04 (“A person commits an offense if the person is intoxicated while operating a motor vehicle in a public place.”). Therefore, the requestor is entitled to receive the submitted information pursuant to article 2.1396 of the Code of Criminal Procedure. Although you assert the information at issue is excepted from disclosure under section 552.108 of the Government Code, 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). Because section 552.108 is a general exception under the Act, the requestor's statutory right of access under 2.1396 prevails. Therefore, the town may not withhold the information at issue under section 552.108 of the Government Code. Accordingly, the town must release the submitted information to the requestor pursuant to article 2.1396 of the Code of Criminal Procedure.

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,

A handwritten signature in black ink, appearing to read "Gerald A. Arismendez". The signature is stylized with a large initial "G" and a flourish at the end.

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/gw

Ref: ID# 771129

Enc. Submitted documents

c: Requestor
(w/o enclosures)