



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

February 5, 2020

Ms. Stacie S. White  
Counsel for the Town of Flower Mound  
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2020-03417

Dear Ms. White:

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# 810989.

The Town of Flower Mound (the "town"), which you represent, received a request for the dash camera recording related to the requestor's arrest. The town claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the town 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:

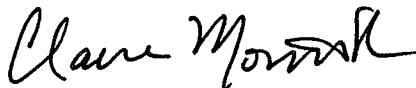
- (1) the stop;
- (2) the arrest;
- (3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test;  
or
- (4) a procedure in which a specimen of the person's breath or blood is taken.

Crim. Proc. Code art. 2.1396. The submitted information consists of video recordings that were made by or at the direction of peace officers employed by the town. Further, the video recordings each contain 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 generally has a right of access to the information pursuant to article 2.1396 of the Code of Criminal Procedure. Although the town 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 town may not withhold the video recordings under section 552.108 of the Government Code. Thus, the requestor is entitled to receive copies of the video recordings pursuant to article 2.1396 of the Code of Criminal Procedure, and the town must release the submitted information to this requestor.<sup>1</sup>

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/gw

Ref: ID# 810989

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup> We note the requestor has a right of access to the information being released. *See* Crim. Proc. Code art. 2.1396. Thus, the town must again seek a decision from this office if it receives another request for the same information from another requestor.