



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 31, 2020

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

OR2020-09880

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# 819184.

The City of Weatherford (the "city") received a request for video recordings pertaining to a specified arrest of the requestor. 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 some of 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. Some of the submitted information consists of video recordings made by or at the direction of a peace officer employed by the city and 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."). Thus, the requestor is entitled to receive copies of these video recordings 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 city may not withhold any portion of the video recordings at issue that depict the stop, the arrest, the conduct of the requestor, or a procedure in which a specimen of the requestor's blood or breath is taken from the requestor under section 552.108 of the Government Code.

You also raise section 552.130 of the Government Code for the video recordings at issue. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or 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. Gov't Code § 552.130(a). As noted above, a statutory right of access generally prevails over the Act's general exceptions to disclosure. *See* ORDs 613 at 4, 451. However, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Thus, we must address the conflict between the confidentiality provided under section 552.130 of the Government Code 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. *See* Gov't Code § 311.026(b); *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, while section 552.130 generally excepts motor vehicle record information maintained in any context, article 2.1396 specifically provides access to certain video footage pertaining to certain intoxication offense arrests. Thus, we conclude the access 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, the city may not withhold any portion of the video recordings at issue that depict the stop, the arrest, the conduct of the requestor, or a procedure in which a specimen of the requestor's blood or breath is taken from the requestor under section 552.130. Accordingly, the city must release the portions of the submitted video recordings that depict the stop, the arrest, the conduct of the requestor, or a procedure in which a specimen of the requestor's blood or breath is taken

from the requestor pursuant to article 2.1396 of the Code of Criminal Procedure. However, we will address your arguments against disclosure of any remaining portions of the submitted video recordings.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime.” *Id.* § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue pertains to an ongoing criminal investigation or prosecution. Based on your representations and our review, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the city may withhold the remaining portions of the video recordings at issue under section 552.108(a)(1) of the Government Code.<sup>1</sup>

In summary, the city must release the portions of the submitted video recordings that depict the stop, the arrest, the conduct of the requestor, or a procedure in which a specimen of the requestor’s blood or breath is taken from the requestor pursuant to article 2.1396 of the Code of Criminal Procedure. The city may withhold the remaining portions of the submitted video recordings under section 552.108(a)(1) of the Government Code.

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,

Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/eb

---

<sup>1</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Ref: ID# 819184

Enc. Submitted documents

c: Requestor  
(w/o enclosures)