



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 20, 2022

Ms. Nicole A. Corr
Counsel for the Town of Addison
Wood Banowsky, P.L.L.C.
5810 Long Prairie Road, Suite 700-220
Flower Mound, Texas 75028

OR2022-32427

Dear Ms. Corr:

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# 979663 (ORR 9625).

The Town of Addison (the "town"), which you represent, received a request for dash camera and body worn camera video recordings of a specified arrest at a specified location. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you only submitted a single body worn camera video recording for our review. Thus, to the extent any information responsive to the request for dash camera video recordings existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 the submitted information consists of a video recording made by or at the direction of an officer employed by the town's police department that includes 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 a copy of portions of the video recording pursuant to article 2.1396 of the Code of Criminal Procedure. Although you assert some of the body worn camera video recording 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). We note section 552.108 is a general exception under the Act. Accordingly, the requestor's statutory right of access under article 2.1396 prevails. Accordingly, the town may not withhold any portion of the video recording at issue that depicts the stop, the arrest, the conduct of the requestor, or a procedure in which a specimen of his blood or breath is taken under section 552.108 of the Government Code.

The town also asserts section 552.130 of the Government Code for the video recording at issue. Section 552.130 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 previously noted, 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 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 recording at issue under article 2.1396 prevails over the confidentiality of section 552.130. Accordingly, the town may not withhold any portion of the video recording at issue that depict the stop, the arrest, the conduct of the requestor, or a procedure in which a specimen of his blood or breath is taken under section 552.130, and the town must release any such portions of the submitted video recording pursuant to article 2.1396 of the Code of Criminal Procedure. However, we will address your argument against disclosure of the portion of the video recordings that are not subject to article 2.1396.

Section 552.130 of the Government Code provides 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. We note, because section 552.130 protects privacy interests, the requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. However, the town must withhold the visible license plates and registration stickers not belonging to the requestor under section 552.130 of the Government Code.

In summary, the town must release the portions of the submitted video recording that depict the stop, the arrest, the conduct of the requestor, or a procedure in which a specimen of his blood or breath is taken pursuant to article 2.1396 of the Code of Criminal Procedure. The town must withhold the visible license plates and registration stickers not belonging to the requestor under section 552.130 of the Government Code. The town must release the remaining information.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 <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

¹ We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a), Crim. Proc. Code art. 2.1396; ORD 481 at 4. Thus, the town must again seek a decision from this office if it receives another request for the same information from another requestor.

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/pt

Ref: ID# 979663

Enc. Submitted documents

c: Requestor
(w/o enclosures)