



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 22, 2014

Ms. Sarah R. Martin
Assistant City Attorney
City of Arlington Police Department
P.O. Box 1065, Mail Stop 04-0200
Arlington, Texas 76004-1065

OR2014-12665

Dear Ms. Martin:

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# 530038 (PD Ref. No. 15328).

The Arlington Police Department (the "department") received a request for all police reports pertaining to a specified apartment complex during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by statute. Gov't Code § 552.101. Section 552.101 encompasses section 550.065(b) of the Transportation Code, which states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). The requestor has not provided the department with two of the three requisite pieces of information specified by the statute. Accordingly, the department must withhold the submitted CR-3 accident report form under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Section 552.101 of the Government Code also encompasses information protected section 58.007 of the Family Code. Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997, are confidential under section 58.007(c) of the Family Code. Fam. Code § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). Section 58.007 provides in relevant part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Id. § 58.007(c). You assert the information in Exhibit B consists of juvenile law enforcement records subject to section 58.007. Section 58.007(c) does not apply to law enforcement records that relate to a juvenile only as a complainant, victim, witness, or other involved party; rather the juvenile must be involved as a suspect, offender, or defendant. *See id.* § 58.007(c); *see also id.* § 51.02(2) (defining “child” as a person who is ten years of age or older and younger than seventeen years of age when conduct occurred). Upon review, we find the information at issue does not involve a juvenile as a suspect, offender, or defendant. Accordingly, section 58.007 is not applicable to Exhibit B and the department may not withhold it under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses information protected by section 261.201 of the Family Code, which provides in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Id. § 261.201(a). Upon review, we find report number 13-25219 was used or developed in an investigation by the department of alleged or suspected child abuse. *See id.* § 261.001(1)(A) (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261). As you do not indicate the department has adopted a rule that governs the release of this type of information, we assume that no such rule exists. Therefore, report number 13-25219 is confidential under section 261.201 of the Family Code and must be withheld under section 552.101 of the Government Code.¹

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably 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 remaining information in Exhibit B pertains to an open and pending investigation. Based upon this representation, we conclude section 552.108(a)(1) is applicable, and the release of Exhibit B 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).

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered basic information). Thus, with the exception of the basic information, you may withhold the remaining information in Exhibit B under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold the submitted CR-3 accident report form under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The department must withhold report number 13-25219 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family

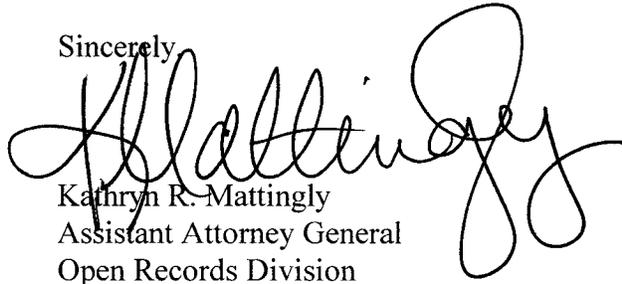
¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Code. With the exception of the basic information, the department may withhold the remaining information in Exhibit B 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 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 'K. Mattingly', with a large, stylized flourish at the end.

Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/tch

Ref: ID# 530038

Enc. Submitted documents

c: Requestor
(w/o enclosures)