



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 23, 2015

Ms. Sarah R. Martin
Assistant City Attorney
Legal Division
City of Arlington
P.O. Box 1065
Arlington, Texas 76004-1065

OR2015-05437

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# 557144 (APD Reference Nos. 18601, 18604, 18606, 18616, 18620, 18622, 18627, 18629, 18630, 18632, 18636, 18639, 18641, 18642, 18664, 18674).

The Arlington Police Department (the "department") received sixteen requests from the same requestor for information pertaining to specified incidents. 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.

Initially, we note the department sought clarification for some of the information requested. *See Gov't Code § 552.222* (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) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified). We further note the requestor has not responded to the request for clarification. Nonetheless, a governmental body must make a good-faith effort to relate a request to information that is within its possession or control. *See Open Records Decision No. 561 at 8* (1990). Because you have submitted information for our review and raised exceptions to disclosure for this information, we understand the department has made a

good-faith effort to determine the submitted information is responsive to the request. Therefore, we will address the applicability of the claimed exceptions to 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.” Gov’t Code § 552.101. This section encompasses information protected by other statutes, such as chapter 550 of the Transportation Code. Exhibit C is a CR-3 accident report form completed pursuant to Chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer’s accident report). Section 550.065(b) states, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. Section 550.065(c)(4) provides for 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). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. In this instance, the requestor has not provided the department with the requisite pieces of information pursuant to section 550.065(c)(4). Accordingly, the department must withhold the submitted CR-3 report 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 section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c). Section 58.007 provides, in pertinent part, as follows:

(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.

Fam. Code § 58.007(c). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age when the conduct occurred. *See id.* § 51.02(2). You assert the information in Exhibit D is confidential under section 58.007(c). Upon review, we find Exhibit D, and report number 14-49010 in Exhibit B, involve juvenile delinquent conduct or conduct indicating a need for supervision occurring after September 1, 1997, and are, therefore, subject to section 58.007(c). *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of section 58.007). None of the exceptions in section 58.007 apply. Therefore, Exhibit D and report number 14-49010 are confidential under section 58.007(c) of the Family Code and must be withheld in their entireties 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). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the remaining information submitted as Exhibit B pertains to pending criminal investigations or prosecutions. Based on your representation, 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). Thus, section 552.108(a)(1) is applicable to the remaining information in Exhibit B.

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). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, 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.

In summary, the department must withhold the submitted CR-3 report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The department must withhold Exhibit D and report number 14-49010 under 552.101 of the

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

Government Code in conjunction with section 58.007(c) of the Family 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,



Lauren Dahlstein
Assistant Attorney General
Open Records Division

LMD/som

Ref: ID# 557144

Enc. Submitted documents

c: Requestor
(w/o enclosures)