



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 3, 2015

Ms. Doris "Dot" Preusse  
Senior Records Clerk  
Central Records  
City of Pflugerville Police Department  
P.O. Box 679  
Pflugerville, Texas 78691

OR2015-10904

Dear Ms. Preusse & Ms. Newby-Cooley:

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# 566000.

The Pflugerville Police Department (the "department") received two requests for information pertaining to a specified incident. You state you are releasing some of the requested information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

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[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) 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).

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<sup>1</sup>We note that although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

You state the submitted information pertains to an open and pending criminal investigation. Based on your representation and our review of the information, 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 Exhibit C.

However, we note 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; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold Exhibit C under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country.<sup>2</sup> Gov't Code § 552.130(a). Accordingly, the department must withhold the information we marked in Exhibit B under section 552.130 of the Government Code.

We note the first requestor is a representative of the Texas Department of Family and Protective Services ("DFPS"). Section 411.114 of the Government Code allows, among other things, for DFPS to obtain criminal history record information ("CHRI") concerning an individual who is the subject of a report of abuse or neglect of a child. *See* Gov't Code § 411.114(a)(4), (a)(2)(I). CHRI consists of "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." *See id.* § 411.082(2).

In this instance, the first requestor does not state whether the individual who is the subject of the submitted information is a suspect in a report of abuse or neglect of a child. Therefore, we are unable to conclude that section 411.114 of the Government Code gives the first requestor a right of access to the CHRI in the submitted information and must rule conditionally. *See id.* § 411.114; *see also id.* § 411.082(2). Accordingly, if the individual to whom the submitted information pertains is a suspect in a report of abuse or neglect of a child, then the department must release to the first requestor information that shows the types of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. *See* Open Records Decision No.

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). The department must also release the basic information. However, the remaining information in Exhibit C may be withheld under section 552.108(a)(1) of the Government Code. If the individual that is the subject of the submitted information is not a suspect in a report of abuse or neglect of a child, then, except for basic information, the department may withhold Exhibit C under section 552.108(a)(1) of the Government Code. Regardless, the department must withhold the information we have marked in Exhibit B under section 552.130 of the Government Code.

We also note the interagency transfer doctrine provides that information may be transferred between governmental bodies without violating its confidential character on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. *See* Attorney General Opinion No. GA-0055 (2003); Open Records Decision Nos. 680 at 7 (2003), 667 at 3-4 (2000). However, an interagency transfer of confidential information is prohibited where a confidentiality statute enumerates specific entities to which release of confidential information is authorized, and the requesting agency is not among the statute's enumerated entities. *See* Attorney General Opinion DM-353 at 4 n.6 (1995); Open Records Decision No. 661 at 3 (1999).

Thus, pursuant to the intergovernmental transfer doctrine, the department has the discretion to release the submitted information that is subject to section 552.108 to the first requestor in the event the individual that is the subject of the submitted information is not a suspect in a report of abuse or neglect of a child. However, should the department choose not to exercise its discretion under the interagency transfer doctrine, then, with the exception of basic information, the department may withhold Exhibit C under section 552.108(a)(1) of the Government Code. Furthermore, release of information pursuant to an intergovernmental transfer does not constitute a release of information to the public for the purposes of section 552.007 of the Act. *See, e.g.*, Attorney General Opinion Nos. H-917 at 1 (1976), H-242 (1974); *see also* Gov't Code §§ 552.007, .352. Thus, the department does not waive its interests in withholding this information by exercising its discretion under the interagency transfer doctrine. However, section 552.130 of the Government Code has its own access provision governing release of information. *See id.* § 552.130(b). Consequently, information subject to section 552.130 must be withheld even if the department chooses to release the submitted information pursuant to the interagency transfer doctrine.

In summary, if the individual to whom the submitted information pertains is a suspect in a report of abuse or neglect of a child, then the department must release to the first requestor information that shows the types of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. With the exception of basic information, the department may withhold the remaining information Exhibit C under section 552.108(a)(1) of the Government Code. If the individual that is the subject of the submitted information is not a suspect in a report of abuse or neglect of a child, then, except for basic information, the department may withhold from

both requestors Exhibit C under section 552.108(a)(1) of the Government Code. The department must withhold the information we have marked in Exhibit B under section 552.130 of the Government Code. However, with the exception of the information subject to section 552.130 of the Government Code, the department may exercise its discretion to release the submitted information to the first requestor.

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](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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/bhf

Ref: ID# 566000

Enc. Submitted documents

c: Requestors  
(w/o enclosures)