



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 2, 2011

Ms. Tiffany Bull
Assistant City Attorney
Arlington Police Department
P.O. Box 1065, Mail Stop 04-0200
Arlington, Texas 76004-1065

OR2011-17815

Dear Ms. Bull:

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# 437780 (Arlington PIR Nos. 5268-091411 and 5369-092111).

The Arlington Police Department (the "department") received two requests for information relating to a specified address, including 9-1-1 call information, over specified periods of time. You state some of the requested information has been released to the second requestor. You claim that 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 portions of the submitted information, which we have marked, are not responsive to the requests because they do not pertain to the specified address. This ruling does not address the public availability of the information that is not responsive to the requests, and the department is not required to release this information in response to these requests. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed). As our ruling is dispositive with respect to this information, we need not address your argument under section 552.101 of the Government Code in conjunction with common-law privacy.

You note the responsive information contains a CR-3 crash report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident

report). You claim that the accident report is excepted from disclosure by section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” 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) or (e), accident reports are privileged and confidential. 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) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. Transp. Code § 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 case, the first requestor has not provided the department with two of the three pieces of information. Thus, you must withhold the responsive accident report from the first requestor under section 552.101 in conjunction with section 550.065(b). However, the second requestor has provided the department with the required information specified by the statute. Accordingly, the department must release the responsive CR-3 accident report, in its entirety, to the second requestor pursuant to chapter 550 of the Transportation Code.

Section 552.101 also encompasses section 58.007 of the Family Code which 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.

Fam. Code § 58.007(c). Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03(a) (defining “delinquent conduct”). For purposes of section 58.007(c), a “child” is a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Upon review, we agree report number 05-53505 and the call-for-service details

dated August 5, 2005 and November 29, 2005, which we have marked, involve children allegedly engaged in delinquent conduct that occurred after September 1, 1997. You indicate none of the exceptions in section 58.007 apply to this information. Thus, the information we have marked is confidential pursuant to section 58.007(c) of the Family Code, and the department must withhold it from both requestors under section 552.101 of the Government Code. However, none of the remaining information you seek to withhold under section 58.007 identifies any juveniles as suspects or offenders. Thus, we find you have failed to demonstrate how the remaining information at issue is subject to section 58.007(c), and it may not be withheld under section 552.101 of the Government Code on that basis.

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). You state Exhibit B pertains to an open and active criminal investigation. Based on your representation and our review, we conclude 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). Thus, section 552.108(a)(1) is applicable to Exhibit B.

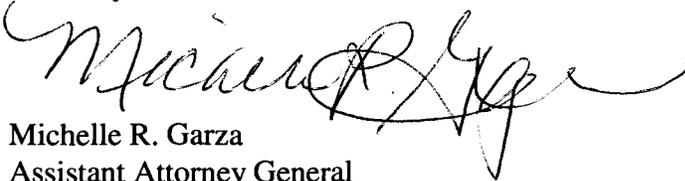
However, we note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127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

In summary, the department must withhold the responsive CR-3 accident report from the first requestor under section 550.065(b) of the Transportation Code. The department must release the responsive CR-3 accident report in its entirety to the second requestor under section 550.065(c) of the Transportation Code. The department must withhold the information we have marked in Exhibit C under section 552.101 in conjunction with section 58.007 of the Family Code from both requestors. With the exception of basic information, the department may withhold Exhibit B pursuant to section 552.108(a)(1) of the Government Code from both requestors. The remaining information must be released.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/sdk

Ref: ID# 437780

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)