



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 1, 2019

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

OR2019-21303

Dear Ms. Bradford:

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# 778403 (Reference# 80241).

The Arlington Police Department (the "department") received a request for a specified arrest report and jail records. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor excludes multiple types of information including dates of birth, medical records, personal financial information, and other categories of information detailed on page two of the request. Accordingly, these types of information are not responsive to the request. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.

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. Section 552.101 encompasses the confidentiality provisions found in chapter 55 of the Code of Criminal Procedure. Articles 55.01 through 55.05 of the Code of Criminal Procedure provide for the expunction of criminal records in certain limited circumstances. Article 55.03 prescribes the effect of an expunction order and provides,

When the order of expunction is final:

- (1) the release, maintenance, dissemination, or use of the expunged records and files for any purpose is prohibited;
- (2) except as provided in Subdivision (3) of this article, the person arrested may deny the occurrence of the arrest and the existence of the expunction order; and
- (3) the person arrested or any other person, when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged.

Crim. Proc. Code art. 55.03. Article 55.04 imposes sanctions for violations of an expunction order and section 1 of this article provides,

A person who acquires knowledge of an arrest while an officer or employee of the state or of any agency or other entity of the state or any political subdivision of the state and who knows of an order expunging the records and files relating to that arrest commits an offense if he knowingly releases, disseminates, or otherwise uses the records or files.

Id. art. 55.04, § 1. This office has determined records subject to an expunction order are not subject to public disclosure under the Act. *See* Open Records Decision No. 457 at 2 (1987) (governmental body prohibited from releasing or disseminating arrest records subject to expunction order, as “those records are not subject to public disclosure under the [Act]”). The department asserts the submitted information is subject to an order of expunction. However, the department also states “the records subject to the [expunction] order were destroyed by redacting all identifying information for the person who is the subject of the order.” In addition, the department informs us the expunction order “is no longer available because it was returned to the court with notice of our compliance with the order.” Thus, the department represents it has expunged all the information that is responsive to the request and subject to the expunction order at issue. We note a portion of the responsive information, which we have marked, may be the subject of an expunction order. However, you have not submitted a copy of the expunction order for the information at issue. We nevertheless conclude to the extent the information at issue is the subject of an expunction order, the department must withhold any such information under section 552.101 of the

Government Code in conjunction with article 55.03 of the Code of Criminal Procedure. To the extent the information at issue is not the subject of any expunction order, we will consider your arguments against its disclosure. However, based on the department's representations and our review, we find the department has failed to establish any of the remaining non-redacted information at issue is subject to the order of expunction at issue. Therefore, the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with article 55.03 of the Code of Criminal Procedure.

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.¹ *See* Gov't Code § 552.130. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, to the extent the information we have marked is the subject of an expunction order, the department must withhold any such information under section 552.101 of the Government Code in conjunction with article 55.03 of the Code of Criminal Procedure. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The department must release the remaining responsive information.²

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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

²We note the information being released contains information to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a), (b) (individual has special right of access to information that relates to himself and is protected by laws intended to protect his privacy interests, and governmental body may not deny access on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (privacy theories not implicated when individual requests information concerning himself). Accordingly, if the department receives another request for this same information from a different requestor, it must again seek a ruling from this office.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/gw

Ref: ID# 778403

Enc. Submitted documents

c: Requestor
(w/o enclosures)