



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 8, 2020

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

OR2020-10546

Dear Ms. Chima-Tetteh:

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# 820895 (Ref. No. 95086).

The Arlington Police Department (the "department") received a request for a spreadsheet containing information pertaining to motor vehicle searches by certain types of officers, including the arresting officers from an incident involving the requestor, and including the racial demographics of the individuals subject to the searches. 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.

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. This section encompasses information protected by other statutes. You argue that the requested information is made confidential by article 2.132(e) of the Code of Criminal Procedure. Article 2.132 of the Code of Criminal Procedure provides in relevant part:

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

...

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Texas Commission on Law Enforcement; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

Code Crim. Proc. art. 2.132(b)(7). Article 2.132 also provides that such a required report “*may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer.*” *Id.* art. 2.132(e) (emphasis added). You explain that the statistical information was created pursuant to article 2.132. Based on this code provision and the wording of the request, you argue the submitted information must be withheld in its entirety because its release in this instance would identify peace officers.

Based on your representations and our review of the information at issue, we find the release of some of the submitted information would violate article 2.132(e) of the Code of Criminal Procedure. The primary goal in statutory interpretation is ascertaining and effectuating the Legislature’s intent. *In re Canales*, 52 S.W.3d 698, 702 (Tex. 2001). In discerning the Legislature’s intent, we begin with a statute’s plain language because we assume that the Legislature tried to say what it meant and, thus, that its words are the surest guide to its intent. *Fitzgerald v. Advanced Spine Fixation Sys., Inc.*, 996 S.W.2d 864, 865-66 (Tex. 1999). “In applying the plain and common meaning of a statute, [one] may not by implication enlarge the meaning of any word in the statute beyond its ordinary meaning, especially when [one] can discern the legislative intent from a reasonable interpretation of the statute *as it is written.*” *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 324 (Tex. App.—Austin 2002, no pet.) (emphasis added) (citing *Sorokolit v. Rhodes*, 889 S.W.2d 239, 241 (Tex. 1994)). We cannot ignore or contravene legislative intent. *See McKinney v. Blankenship*, 282 S.W.2d 691 (Tex. 1955) (a statute should not be construed so as to lead to a foolish or an absurd result); *see also State ex rel. Childress v. School Trustees of Shelby County*, 239 S.W.2d 777 (Tex. 1951); *Klevenhagen v. Int’l Fidelity Ins. Co.*, 861 S.W.2d 13 (Tex. App.—Houston [1st Dist.] 1993) (when interpreting statute, Court of Appeals may consider consequences of particular construction, and Court of Appeals will presume legislature intended fair, rational and reasonable result).

You state the submitted information consists of data compiled by the department for its annual report as required by article 2.132. Code Crim. Proc. art. 2.132(b)(7). The compiled information includes identifying information of peace officers. Therefore, the department must withhold the portions of the compiled information that identify peace officers, which we indicated, and the compiled information pertaining to the specified arresting officers in its entirety, under section 552.101 of the Government Code in conjunction with article 2.132(e) of the Code of Criminal Procedure. However, we find none of the remaining information is confidential under article 2.132 and none of it may be withheld under section 552.101 on that basis. 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Michelle Garza
Assistant Attorney General
Open Records Division

MG/jxd

Ref: ID# 820895

Enc. Submitted documents

c: Requestor
(w/o enclosures)