



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 23, 2019

Lieutenant Luis Martinez  
Laredo Police Department  
4712 Maher Avenue  
Laredo, Texas 78041

OR2019-20131

Dear Lieutenant Martinez:

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# 776410 (Reference# W012379-050719).

The Laredo Police Department (the "department") received a request for information in a specified case. 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 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). The department states the submitted information pertains to an active criminal investigation. Based on this 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

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<sup>1</sup>Although the department raises section 552.101 of the Government Code in conjunction with section 58.3008 of the Family Code, it makes no arguments to support this exception. Therefore, we assume the department has withdrawn its claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

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, the department may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.

However, we note the requestor is an investigator with the Texas Department of Licensing and Regulation ("TDLR"). Section 411.122(a) of the Government Code provides,

an agency of this state listed in Subsection (d) . . . that licenses or regulates members of a particular trade, occupation, business, vocation, or profession is entitled to obtain from the [Department of Public Safety] criminal history record information [{"CHRI"}] maintained by the [Department of Public Safety] that relates to a person who: (1) is an applicant for a license from the agency; (2) is the holder of a license from the agency; or (3) requests a determination of eligibility for a license from the agency.

Gov't Code § 411.122(a). TDLR is specifically subject to section 411.122 of the Government Code. See *id.* § 411.122(d)(10). In addition, section 411.087(a) of the Government Code provides, in pertinent part,

(a) A person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from the [Department of Public Safety CHRI] maintained by the [Department of Public Safety] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

Gov't Code § 411.087(a)(2). CHRI is defined as "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). The submitted information contains CHRI about this individual.

In this instance, the requestor does not indicate whether she is conducting a criminal background check on an individual who is an applicant for a license, is the holder of a license, or requests a determination of eligibility for a license from TDLR. Accordingly, if the CHRI within the submitted information relates to an individual who is an applicant for

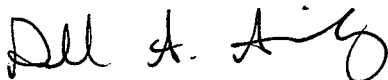
a license, the holder of a license, or requests a determination of eligibility for a license from TDLR, then, pursuant to sections 411.087(a)(2) and 411.112(a) of the Government Code, the department must release the information that shows the types of allegations made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. *See id.* §§ 411.087(a)(2), .122(a). Although the department raises section 552.108 of the Government Code for such information, a specific statutory right of access overcomes the general exceptions in the Act, such as section 552.108. *See* Open Record Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge in statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). In that event, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. However, if the individual at issue is not an individual who is an applicant for a license, the holder of a license, or requests a determination of eligibility for a license from TDLR, then the department may withhold the submitted information in its entirety under section 552.108(a)(1) of the Government Code. In either event, the department must release basic information.

In summary, with the exception of the basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code; however, if the individual at issue is under investigation by TDLR and an applicant for or a holder of a license from TDLR, or has requested a determination of eligibility for a license from TDLR, then the department must make CHRI available to the requestor under sections 411.087 and 411.122 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](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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/jxd

Ref: ID# 776410

Enc. Submitted documents

c: Requestor  
(w/o enclosures)