



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 21, 2020

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

OR2020-05630

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# 812756 (Police Dept. Ref. No. 91965).

The Arlington Police Department (the "department") received a request for a specified incident report involving a named individual. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. 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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal investigation or prosecution, and release of the information would interfere with the investigation or prosecution of the case. Based upon this representation, we conclude release of the submitted information 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). Accordingly, we find section 552.108(a)(1) is applicable to the submitted information.

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

In this instance, we note the requestor is a representative of International Leadership of Texas, an open-enrollment charter school, and may have a right of access to the submitted information. Section 411.097 of the Government Code provides, in pertinent part:

(a) A . . . charter school . . . is entitled to obtain from the [Texas Department of Public Safety (“DPS”)] criminal history record information [(“CHRI”)] maintained by the [DPS] that the . . . school . . . is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is:

(1) an applicant for employment by the . . . school[;]

(2) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the . . . school . . . to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported; or

(3) an employee of or applicant for employment by an entity that contracts to provide services to a . . . charter school . . . as provided by Section 22.0834 or 22.08341, Education Code.

(b) A . . . charter school . . . is entitled to obtain from the [DPS CHRI] maintained by the [DPS] that the . . . school . . . is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is a volunteer, student teacher, or employee of the . . . school[.]

Gov’t Code § 411.097(a)-(b); see Educ. Code. § 22.083(a)(1), (a-1) (2) (authorizing open-enrollment charter school to obtain from any law enforcement agency CHRI relating to school district employee). In addition, section 411.087(a) of the Government Code provides, in pertinent part:

[A] person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from the [[DPS CHRI] maintained by the [DPS] 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). We note 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). Thus, the requestor may have a right of access to CHRI about the named individual contained in the submitted information. In this instance, we are unable to determine whether the named individual is one of the types of individuals listed in section 411.097(a) or section 411.097(b) of the Government Code. *See id.* § 411.097(a)-(b). Thus, if the named individual is one of the types of individuals listed in section 411.097(a) or section 411.097(b) of the Government Code, then the department must release information to this requestor 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* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). In that instance, with the exception of basic information, which must also be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. However, if the named individual is not one of the types of individuals listed in section 411.097(a) or section 411.097(b) of the Government Code, then, with the exception of basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) 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 <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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/gw

Ref: ID# 812756

Enc. Submitted documents

c: Requestor
(w/o enclosures)