



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 31, 2016

Ms. Delietrice Henry
Open Records Assistant
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2016-07187

Dear Ms. Henry:

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# 604198 (ORR# KLET010816).

The Plano Police Department (the "department") received a request for a specified police report pertaining to a named individual. You state you will release 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 representative sample of information.¹

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.*

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

§§ 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 and prosecution. You further state the City of Plano's Prosecutor's Office has advised the release of the submitted information would interfere with the prosecution of this case. Based on your 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 S.W.2d 559 (Tex. 1976). Thus, 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 the basic information, the department may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.

In this instance, the requestor is a representative of the Plano Independent School District (the "district") and may have a right of access to the submitted information. Section 411.097 of the Government Code provides, in pertinent part:

(a) A school district . . . is entitled to obtain from the [Department of Public Safety ("DPS")] criminal history record information [{"CHRI"}] maintained by the [DPS] that the district . . . 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 district[;]

(2) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district . . . 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 school district . . . as provided by Section 22.0834, Education Code.

(b) A school district . . . is entitled to obtain from the [DPS CHRI] maintained by the [DPS] that the district . . . 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 district[.]

Gov't Code § 411.097(a)-(b); *see* Educ. Code. § 22.083(a)(1), (a-1)(2) (authorizing school district 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) [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:

...

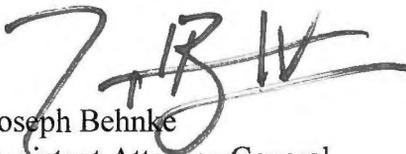
(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

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 district 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). Therefore, 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, the department must release information to this requestor that shows the type of allegation 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 case, 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 the department must release, 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 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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 604198

Enc. Submitted documents

c: Requestor
(w/o enclosures)