



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 12, 2016

Mr. Guillermo Trevino  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2016-10894

Dear Mr. Trevino:

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# 610367 (ORR# W049799).

The Fort Worth Police Department (the "department") received a request for a specified incident report pertaining to a named individual. You state the department has released some of the submitted information. 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.

Initially, you state the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2015-24993 (2015). In that ruling, we determined with the exception of the basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. We note the requestor in this instance has a right of access to portions of the submitted information that the prior requestor did not have. Thus, we find there is a change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the department may not rely on Open Records Letter No. 2015-24993 as a previous determination. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body,

and ruling concludes that information is or is not excepted from disclosure). Therefore, we will consider your argument against release of 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 reasonably 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). You state the submitted information pertains to a criminal investigation that is currently pending and release of the information at issue would interfere with the investigation and prosecution of a 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). We conclude 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*, and includes a detailed description of the offense. *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, however, the requestor is a representative of the United States District Court Probation and Pretrial Services for the Northern District of Texas (the “probation office”). Section 411.089(a) of the Government Code provides “[a] criminal justice agency is entitled to obtain from the [Texas Department of Public Safety (the “DPS”)] any criminal history record information maintained by the [DPS] about a person.” Gov’t Code § 411.089(a). Additionally, section 411.087(a) of the Government Code provides:

[A] person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from the [DPS] criminal history record information maintained by the [DPS] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

*Id.* § 411.087(a)(2). “Criminal history record information” 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.” *Id.* § 411.082(2).

The submitted documents contain criminal history record information of the named individual. However, a criminal justice agency that receives criminal history record information from another criminal justice agency pursuant to section 411.087(a)(2) may receive such information only for a criminal justice purpose. *See id.* §§ 411.083(c), .087(b); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of criminal history record information). Thus, if the requestor in this instance is a representative of a “criminal justice agency,” then she is authorized to obtain criminal history record information pertaining to the named individual from the department pursuant to section 411.087(a)(2) of the Government Code, but only for a criminal justice purpose. *See* Gov’t Code §§ 411.083(c), .087(a)(2).

A “criminal justice agency” is defined in part as “a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice[.]” *Id.* § 411.082(3)(A). “Administration of criminal justice” has the meaning assigned by article 60.01 of the Code of Criminal Procedure. *See id.* § 411.082(1). Article 60.01 of the Code of Criminal Procedure defines “administration of criminal justice” as the “performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of an offender. The term includes criminal identification activities and the collection, storage, and dissemination of criminal history record information.” Crim. Proc. Code art. 60.01(1).

The department received the request for information from the probation office. We understand the requestor is engaged in the administration of criminal justice for the purposes of chapter 411 of the Government Code. Additionally, the requestor states the arrestee in the submitted report is under investigation by the probation office, and she indicates she will use the information at issue for a criminal justice purpose. Accordingly, the department must make available to the requestor criminal history record information from the submitted documents 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). Except for basic information, which you state has been released, the department may withhold the remaining 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](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,

A handwritten signature in black ink that reads "Claire Morris Sloan". The signature is written in a cursive style with a long horizontal line extending to the right.

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/bw

Ref: ID# 610367

Enc. Submitted documents

c: Requestor  
(w/o enclosures)