



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 5, 2016

Mr. Josh Marcum
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2016-15208

Dear Mr. Marcum:

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# 616970 (PIR# W051089).

The City of Fort Worth (the "city") received a request for a specified offense report. You state the city has released some 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.

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 city states the submitted information relates to a pending criminal prosecution. Upon review, 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 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.

Section 552.108, however, 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; see also Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which you state the city has released, the city may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.

However, we note the requestor is a representative of the Texas Department of Public Safety ("DPS") Regulatory Services Division (the "division") and may have a right of access to some of the requested information. Section 411.089(a) of the Government Code provides a criminal justice agency is entitled to obtain from DPS any criminal history record information ("CHRI") maintained by the DPS about a person. See Gov't Code § 411.089(a); see also *id.* § 411.083(b)(1) (DPS shall grant criminal justice agencies access to CHRI). In addition, section 411.087(a) of the Government Code provides in part:

(a) [A] person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from [DPS CHRI] maintained by [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.

Id. § 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 requested information contains CHRI. "Administration of criminal justice" has the meaning assigned to it by article 60.01 of the Code of Criminal Procedure. See *id.* § 411.082(1). Article 60.01 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 [CHRI]." Crim. Proc. Code art. 60.01(1). We understand the requestor represents a criminal justice agency. See *id.* § 411.082(3)(A) (defining "criminal justice agency" 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"). However, a criminal justice agency that receives CHRI from another criminal justice agency pursuant to section 411.087(a)(2) may only receive such information 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 CHRI). Thus, the requestor is authorized to obtain CHRI from the city 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).

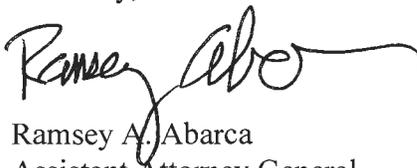
Although it appears the requestor is engaged in the administration of criminal justice under chapter 411, we are unable to determine whether the requestor intends to use any CHRI at issue for a criminal justice purpose. Consequently, to the extent city determines the requestor intends to use the CHRI for a criminal justice purpose, we conclude the city must make available to the requestor the CHRI that shows the type of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. Although you raise section 552.108 of the Government Code for such information, a specific statutory right of access prevails over the general exceptions to disclosure found in the Act. *See* Open Records Decision No. 613 at 4 (1993) (exceptions in Act cannot impinge on 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, with the exception of basic information, which you state the city has released, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

However, if the city determines the requestor does not intend to use the CHRI for a criminal justice purpose, then the requestor does not have a right of access to any CHRI under section 411.087. In that event, with the exception of the basic information, which you state has been released, the city 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,

A handwritten signature in black ink, appearing to read "Ramsey Abarca", with a long, sweeping flourish extending to the right.

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/som

Ref: ID# 616970

Enc. Submitted documents

c: Requestor
(w/o enclosures)