



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 3, 1997

Ms. Felicia L. Wasson
Assistant City Attorney
City of Dallas
Criminal Law and Police Division
Municipal Building
Dallas, Texas 75201

OR97-0231

Dear Ms. Wasson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103320.

The City of Dallas Police Department (the "city"), which your office represents, received a request for information relating to a specific arrest report, referenced as Dallas Police Service number 0296551-T. The requestor in this case is an investigator for the State Board for Educator Certification (the "board"), which "is conducting a background investigation relating to the licensure of the [subject of the request]." You have submitted a representative sample of the requested records and claim that the information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

You contend that the submitted police offense report and related records are excepted from required public disclosure as "criminal history record information" ("CHRI") under common-law privacy. Texas law prohibits the disclosure of criminal history record information to the general public. Section 411.083(a) of the Government Code provides that "[c]riminal history record information maintained by the department [of Public Safety] is confidential information for the use of the department [of Public Safety]." However, "the department [of Public Safety] shall grant access to criminal history record information to noncriminal justice agencies authorized by federal statute or executive order or by *state statute* to receive criminal history record information." Gov't Code § 411.083(b)(2) (emphasis added); *see also* § 411.087 (restrictions on disclosure of CHRI obtained from Department of Public Safety also apply to CHRI obtained from other criminal justice agencies).

In this instance, we believe that the requestor has a right of access to the information at issue. Section 22.082 of the Education Code provides that "[t]he State Board for Educator

Certification shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates to an applicant for or holder of a certificate.” We further note that section 411.090 of the Government Code provides a right of access for the board to obtain “criminal history record information” from the DPS. Section 411.090 of the Government Code provides that

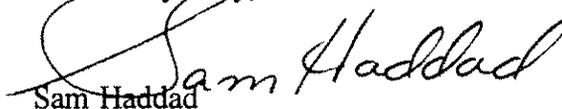
(a) The State Board for Educator Certification is entitled to obtain from the department any criminal history record information maintained by the department about a person who has applied to the board for a certificate under Subchapter B, Chapter 21, Education Code.

Furthermore, pursuant to section 411.087 of the Government Code, an agency which is entitled to obtain CHRI from the DPS is also authorized to “obtain from any other criminal justice agency in this state criminal history record information maintained by that [agency].” Gov’t Code § 411.087(a)(2).

In this instance, the requestor is an investigator of the board and the subject of this request is an applicant for an educator certificate. The requestor specifically seeks “all offense, incident, and investigation reports” related to one particular incident referenced by charge, date of arrest and arrest number. Although a specific request for an offense report is generally not considered to be CHRI in other circumstances, this office has determined that when read together, section 22.082 of the Education Code and sections 411.087 and 411.090 of the Government Code give the board a statutory right of access to the requested information. Therefore, the city must release all of the requested information to the requestor. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Open Records Act).

We are resolving this matter with this informal letter ruling rather than with a published open records decision.¹ This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/cbh

¹In reaching our conclusion, we assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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Ref.: ID# 103320

Enclosure: Submitted information

cc: Mr. Cary P. Decuir, Investigator
State Board for Educator Certification
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(w/o enclosures)

