



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 27, 2013

Mr. John P. Beauchamp  
General Counsel for the Commission  
The Texas Commission on Law Enforcement Officer Standards and Education  
6330 East Highway 290, Suite 200  
Austin, Texas 78723-1035

OR2013-16872

Dear Mr. Beauchamp:

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# 500533.

The Texas Commission on Law Enforcement Officer Standards and Education (the "commission") received a request for the latest evaluation and correspondence for the Lone Star College Law Enforcement Academy. You state most of the information has been released to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.103, 552.108, 552.111, and 552.114 of the Government Code and privileged under Texas Rule of Civil Procedure 192.5. We have considered your arguments and reviewed the submitted information.

Initially, we note you have redacted portions of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *See Gov't Code* § 552.301(a), (e)(1)(D). In this instance, we are able to discern the nature of the information that has been redacted; thus, being deprived of that information does not inhibit our ability to make a ruling. Nevertheless, be advised that a failure to provide this office with requested information generally deprives us of the ability to determine whether information may be withheld and leaves this office with no alternative other than ordering the redacted

information be released. *See id.* §§ 552.301(e)(1)(D) (governmental body must provide this office with copy of “specific information requested”), .302. Thus, in the future, the commission should refrain from redacting any information it submits to this office in seeking an open records ruling.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” *Id.* § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 is applicable only to records created by an agency, or a portion of an agency, whose primary function is to investigate crimes and enforce criminal laws. *See Open Records Decision Nos. 493 at 2 (1988), 287 (1981)*. Section 552.108 generally does not apply to records created by an agency whose chief function is essentially regulatory in nature. *See Open Records Decision No. 199 (1978)*. For example, an agency that employs peace officers to investigate crime and enforce criminal laws may claim that section 552.108 excepts portions of its records from required disclosure. *See Open Records Decision No. 127 at 8 (1976) (arson investigation unit of fire department is law enforcement agency)*. We note the Enforcement Unit of the commission is comprised of commissioned investigators who investigate both administrative and criminal violations of law as it relates to the commission’s mission. *See Occ. Code § 1701.160 (commission may commission certified peace officers as investigators employed by commission for purpose of assisting commission in administering chapter 1701); see also id. §§ 1701.551-.553.*

You state the commission employs peace officers with full investigative and arrest authority. Further, you state the information you have redacted relates to an ongoing criminal investigation. Based on this 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, the commission may withhold the redacted information under section 552.108(a)(1) of the Government Code.<sup>1</sup> The remaining information must be released.

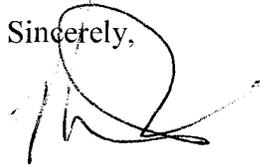
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of the information at issue.

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, appearing to read 'Nneka Kanu', written over the word 'Sincerely,'.

Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/bhf

Ref: ID# 500533

Enc. Submitted documents

c: Requestor  
(w/o enclosures)