



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 31, 1994

Mr. Peter K. Munson  
Law Offices of Munson, Munson, Pierce  
and Cardwell  
P.O. Box 1949  
Sherman, Texas 75091-1949

OR94-160

Dear Mr. Munson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552 (formerly V.T.C.S. article 6252-17a).<sup>1</sup> We assigned your request ID# 24566.

The Whitesboro Independent School District (the "school district"), which you represent, has received a request for five categories of information relating to a teacher accused of sexual misconduct. Specifically, the requestor seeks the following information from the personnel file of Mr. Jack Wright:

- [1.] Complete service record, including resumes;
- [2.] Evaluations pertaining to his performance as a teacher;
- [3.] Complaints filed against him and documents pertaining to disposition of those complaints; [and]
- [4.] Letter of resignation.

In addition, the requestor seeks "a copy of a blank W.I.S.D. teacher's contract." You advise us that the school district has released to the requestor information responsive to items 1, 2, and 4 above as well as a copy of a blank school district teacher's contract. You

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<sup>1</sup>We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

object, however, to releasing information responsive to item 3. You have submitted information to us for review, including summaries of student complaints compiled by a high school principal and the students' handwritten complaints. You advise us that certain audiotapes of the school district responsive to the request are currently in the possession of the Whitesboro Police Department. You claim that sections 552.026, 552.101, 552.108, and 552.114 of the act except the foregoing information from required public disclosure.

You claim that section 552.108 of the act excepts the submitted information and the requested audiotapes from required public disclosure. Section 552.108 excepts from required public disclosure:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . .

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.

Gov't Code § 552.108. When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally* Open Records Decision No. 127 (1976). You advise us that the requested information relates to an active investigation. The county attorney responsible for the investigation has advised us of his objection to "release of any material from the Whitesboro ISD investigation of Jack Wright," claiming that its release would undermine his investigation and anticipated prosecution of the case. Accordingly, we conclude that the school district may withhold the submitted information and the audiotapes from required public disclosure under section 552.108 of the act. As we resolve this matter under section 552.108, we need not address the applicability of the other claimed exceptions.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Open Government Section

Enclosures: Submitted documents

Ref.: ID# 24566

cc: Ms. Djuna Foster-Jones  
Whitesboro News-Record  
P.O. Box 68  
Whitesboro, Texas 76273  
(w/o enclosures)