



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 3, 2010

Ms. Michelle T. Rangel
Assistant County Attorney
William B. Travis Building
301 Jackson Street, Suite 728
Richmond, Texas 77469-3108

OR2010-11631

Dear Ms. Rangel:

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#389073.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for a copy of all offense, incident, and investigative reports, witness statements, and confessions regarding a named individual, including information pertaining to a specified incident. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the

¹We 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). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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). In this instance, the sheriff states that the information at issue relates to an active criminal prosecution. Based on this representation and our review, we determine that the release of incident report #10-11444 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), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle* and includes a detailed description of the offense and the identification and description of the complainant. *See* 531 S.W.2d at 186-88. Thus, with the exception of basic information, you may generally withhold incident report #10-11444 pursuant to section 552.108(a)(1).²

However, we note that the requestor is an investigator with the Texas Education Agency (the “TEA”) which has assumed the duties of the State Board for Educator Certification (the “SBEC”).³ As such, the requestor may have a right of access to some of the submitted information. Section 22.082 of the Education Code provides that the SBEC “may obtain from any law enforcement or criminal justice agency all criminal history record information [“CHRI”] and all records contained in any closed criminal investigation file that relate to a specific applicant for or holder of a certificate.” Educ. Code § 22.082. CHRI consists of “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). In this instance, we find that section 22.082 of the Education Code gives the TEA a statutory right of access to portions of the submitted information. *See id.*; *cf. Brookshire v. Houston Indep. Sch. Dist.*, 508 S.W.2d 675, 678-79 (Tex. Civ. App.—Houston [14th Dist.] 1974, no writ) (when legislature defines term in one statute and uses same term in relation to same subject matter in latter statute, later use of term is same as previously defined). Accordingly, we conclude that the sheriff must release information from the submitted documents to this requestor that shows the types of allegations made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions.⁴ *See Open*

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

³The 79th Texas legislature passed House Bill 1116, which required the transfer of SBEC’s administrative functions and services to TEA, effective September 1, 2005.

⁴We note that because the requestor has a special right of access to this information in this instance, the sheriff must again seek a decision from this office if it receives another request for the same information from another requestor.

Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under Act).

In summary, the sheriff must release information from the submitted documents that show the types of allegations made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions pursuant to section 22.082 of the Education Code. With the exception of basic information, which must be released, the sheriff may withhold the remaining information under section 552.108 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/jb

Ref: ID#389073

Enc. Submitted documents

c: Requestor
(w/o enclosures)