



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 30, 2011

Ms. Lysia H. Bowling  
City Attorney  
City of San Angelo  
P.O. Box 1751  
San Angelo, Texas 76902

OR2011-12536

Dear Ms. Bowling:

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# 428730.

The San Angelo Police Department (the “department”) received a request from an investigator with the Texas Education Agency (the “TEA”) for information relating to a specified charge against a named individual. 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 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You provide a representation from the 51st District Attorney’s Office stating the submitted information is related to a pending prosecution. Based on this representation and our review, we conclude section 552.108(a)(1) is generally applicable to the submitted information.

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14thDist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and includes a detailed description of the

offense. *See* 531 S.W.2d at 186-88. Therefore, except for basic information, the department may withhold report number 010007263 under section 552.108(a)(2) of the Government Code.

As noted above, however, the requestor is an investigator with the TEA, which has assumed the duties of the State Board for Educator Certification (the “SBEC”).<sup>1</sup> As such, the requestor may have a right of access to some of the remaining information. Section 22.082 of the Education Code provides 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, information, and other formal criminal charges and their dispositions.” Gov’t Code § 411.082(2). In this instance, we find section 22.082 of the Education Code gives the TEA a statutory right of access to the CHRI contained in 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 the department must release information from the submitted information 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. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under Act). Furthermore, the basic information in the report must be released, as such information may not be withheld under section 552.108(a)(1). *See* Gov’t Code § 552.108(c) (basic information about arrested person, arrest, or crime not excepted from disclosure under section 552.108); *see also Houston Chronicle*, 531 S.W.2d at 186-87 (listing specific types of information held to be basic information); *see also* Open Records Decision No. 127 (summarizing types of information considered to be basic information).

In summary, the department must release information from the submitted information that shows 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, the department may withhold the remaining 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.

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

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](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,

A handwritten signature in black ink, appearing to read "Mack T. Harrison". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/em

Ref: ID# 428730

Enc. Submitted documents

c: Requestor  
(w/o enclosures)