



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 3, 2012

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2012-00024

Dear Mr. Weir:

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# 441375 (COSA File No. W003789).

The San Antonio Police Department (the "department") received a request from an investigator with the Texas Education Agency (the "TEA") seeking all information pertaining 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.

Initially, we note the submitted information includes a crash report completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See id.* § 550.065(b). Section 550.065(c)(4) provides for release of an accident report to a person who provides two of the following three items of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the items of information specified by the statute. *Id.* In this instance, the requestor has provided the department with two of the three specified

items of information. Therefore, the crash report must be released to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code.

You seek to withhold the remaining submitted information under section 552.108 of the Government Code, which 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 claiming section 552.108(a)(1) must reasonably explain how and why the 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).

You state the submitted information pertains to a criminal case that is still open and pending. Based on your representation, we conclude the release of the information at issue at this time 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).

We note, however, that the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The department provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108.

Additionally, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the DIC-24 and DIC-25 forms and basic information, the information at issue is subject to section 552.108(a)(1) of the Government Code.

As noted above, the requestor is an investigator for the TEA, which has assumed the duties of the State Board for Educator Certification (“SBEC”).¹ Therefore, we must address whether the requestor has access to the information subject to section 552.108(a)(1) of the Government Code. The requestor claims section 22.082 of the Education Code gives SBEC a right to the requested information and indicates the requested information is related to an SBEC investigation of an individual who has applied for or currently holds educator

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

credentials. Section 22.082 of the Education Code provides SBEC “may obtain from any law enforcement or criminal justice agency all criminal history record information 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. In this instance, as noted above, you inform us the submitted information pertains to a criminal case that is considered open. Therefore, the TEA may not obtain “all records contained” in the open case under section 22.082 of the Education Code.

However, section 22.082 provides the TEA with a right of access to criminal history record information (“CHRI”) from an open investigation. 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). Accordingly, pursuant to section 22.082 of the Education Code, the department must release to this requestor 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.² *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under Act). With the exception of the DIC-24 and DIC-25 forms and basic information, the department may withhold the remaining records under section 552.108(a)(1) of the Government Code.

Finally, we note the DIC-24 and DIC-25 forms contain a Texas driver’s license number. Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country is excepted from public release. *See* Gov’t Code § 552.130(a)(1). The department must withhold the Texas driver’s license number we have marked in the DIC-24 and DIC-25 forms under section 552.130 of the Government Code.

In summary, the department must release the submitted CR-3 accident report form under section 550.065(c)(4) of the Transportation Code. Except for the marked Texas driver’s license number, which the department must withhold under section 552.130 of the Government Code, the DIC-24 and DIC-25 forms must be released. The department also must release basic information and 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. The department may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

²Because the TEA has a right of access to certain information in the submitted documents that otherwise would be excepted from release under the Act, the department must again seek a decision from this office if it receives a request for this information from a different requestor without such a right of access.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 441375

Enc. Submitted documents

c: Requestor
(w/o enclosures)