



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 23, 2010

Mr. Robert E. Reyna
Assistant City Attorney
City of San Antonio
P. O. Box 839966
San Antonio, Texas 78283-3966

OR2010-02673

Dear Mr. Reyna:

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# 371049 (COSA File No. 2009-4763).

The San Antonio Police Department (the "departement") received a request from a Texas Education Agency (the "TEA") investigator for all offense, incident, and investigative reports, including case number 90-0723512, regarding a named individual. You claim the submitted incident report number 90-0723512 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 state the submitted incident report is related to a pending criminal investigation. Based on this representation and our review, we conclude section 552.108(a)(1) is applicable to the submitted information. *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).

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").¹ As such, the requestor may have a right of access to some of the submitted 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 incident report. *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 incident report 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 an arrested person, an arrest, or a 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 incident report 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.

¹The 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, 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 371049

Enc. Submitted documents

c: Requestor
(w/o enclosures)