



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 19, 2020

Mr. Christopher Garza
Assistant District Attorney
Brazoria County
111 East Locust, Suite 408A
Angleton, Texas 77515

OR2020-20886

Dear Mr. Garza:

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# 842785 (ORR# 20-0979).

The Brazoria County Sheriff's Office (the "sheriff's office") received a request for case number 19-2921771 involving a named individual. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions the sheriff's office claims and reviewed the submitted information.

Section 552.108(a)(1) 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 claiming section 552.108(a)(1) must 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). The sheriff's office states the submitted information pertains to an active criminal investigation or prosecution. Based on this representation, we conclude the release of the information at issue 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). Thus, section 552.108(a)(1) is applicable to the submitted information.

However, we note 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). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the sheriff's office may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

However, the requestor is an investigator for the Texas Education Agency (the "TEA"), which has assumed the duties of the State Board for Educator Certification ("SBEC").² Section 22.082 of the Education Code provides 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 issued under Subchapter B, Chapter 21 [of the Education Code]." Educ. Code § 22.082. Section 411.090 of the Government Code grants SBEC a right of access to obtain CHRI from the Texas Department of Public Safety ("DPS") regarding persons who have applied to the SBEC. See Gov't Code § 411.090. Additionally, section 411.0901 of the Government Code specifically provides the TEA with a right of access to obtain CHRI maintained by DPS regarding certain school employees or applicants for employment. See *id.* § 411.0901. Pursuant to section 411.087 of the Government Code, an agency entitled to obtain CHRI from DPS also is authorized to "obtain from any other criminal justice agency in this state [CHRI] maintained by that [agency]." *Id.* § 411.087(a)(2). 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." *Id.* § 411.082(2). The TEA states the individual at issue in the submitted information has applied for or currently holds educator credentials.

We find, when read together, sections 22.082 of the Education Code and 411.087 of the Government Code give the TEA a statutory right of access to portions of the information at issue. 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). Although the sheriff's office seeks to withhold this information under sections 552.103 and 552.108 of the Government Code, the exceptions to disclosure found in the Act generally do not apply to information other statutes make public. See Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Accordingly, we conclude the sheriff's office must release CHRI from the information at issue. See Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under Act).

¹ As our ruling is dispositive, we need not address the remaining arguments against disclosure, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

² 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.

In summary, with the exception of CHRI, which must be released to this requestor, and the basic information, which must also be released, the sheriff's office may withhold the submitted 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.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

Ref: ID# 842785

Enc. Submitted documents

c: Requestor
(w/o enclosures)