



October 6, 1999

Mr. Juan Cruz
Escamilla & Poneck, Inc.
1200 South Texas Building
603 Navarro Street
San Antonio, Texas 78205-1826

OR99-2848

Dear Mr. Cruz:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 129200.

The South San Antonio Independent School District (the "district"), which you represent, received a request for the "security report and personnel investigation on allegations regarding personal [sic] documents on Maria X. Garcia security case #99-07627." You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the information at issue.

Section 552.108 of the Government Code excepts from disclosure certain records of law enforcement agencies and prosecutors. Section 552.108 applies only to records created by an agency, or a portion of an agency, whose primary function is to investigate crimes and enforce criminal laws. *See* Open Records Decision Nos. 493 (1988), 287 (1981). Section 552.108 generally does not apply to records created by an agency whose chief function is essentially regulatory in nature. Open Records Decision No. 199 (1978). An agency that does not qualify as a law enforcement agency may, under certain limited circumstances, claim that section 552.108 protects records in its possession. *See, e.g.*, Attorney General Opinion MW-575 (1982), Open Records Decision Nos. 493 (1988), 272 (1981).

If an administrative agency's investigation reveals possible criminal conduct that the administrative agency intends to report or has already reported to the appropriate law enforcement agency, section 552.108 will apply to information gathered by the administrative agency if its release would interfere with law enforcement. *See* Gov't Code

§ 552.108(a)(1), (b)(1), Attorney General Opinion MW-575 (1982), Open Records Decision Nos. 493 (1988), 272 (1981). The requested information relates to a district investigation that is "pending." You argue that

[b]ecause the District presently intends to report findings of criminal conduct to the Bexar County District Attorney's Office, and because the investigation is still pending, release of this information would interfere with, and compromise the investigation.

Based upon your representations, we conclude that section 552.108 is applicable to the requested information.

We note, however, that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally 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); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for the front page offense report information, the district may withhold the requested information from disclosure under section 552.108.

Because we are able to resolve this matter under section 552.108, we do not address your additional arguments against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 129200

Encl. Submitted documents

cc: Ms. Maria Garcia
Director of Personnel
South San Antonio I S D
2515 Bobcat Lane
San Antonio, Texas 78224
(w/o enclosures)