



November 2, 1999

Ms. Suzanne S. Becker
Schwartz & Eichelbaum, P.C.
700 North St. Mary's, Suite 1850
San Antonio, Texas 78205

OR99-3087

Dear Ms. Becker:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129259.

The San Felipe-Del Rio Consolidated Independent School District (the "district") received a request for the personnel file of a specific employee. You state that except for the submitted information, you have released the contents of the personnel file to the requestor. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

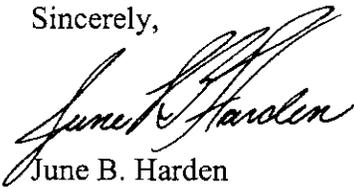
(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime[.]

A non-law enforcement agency may withhold information under section 552.108 if the information relates to possible criminal conduct and has been forwarded to the appropriate law enforcement agency for investigation. *See* Attorney General Opinion MW-575 (1982); Open Records Decision No. 493 (1988). In this instance, you explain that the submitted records were generated by the district's chief of police in the course of his ongoing

investigation into suspected criminal conduct. You also state that “one of the duties of the police chief is to investigate suspected criminal conduct within the district for possible referral to local law enforcement.” Based upon your arguments and representations, we agree that the submitted information may be withheld from disclosure under section 552.108(a)(1). *See, e.g.*, Open Records Decision Nos. 474 (1987), 372 (1983) (where incident involving allegedly criminal conduct is still under active investigation or prosecution, section 552.108 may be invoked by any proper custodian of information which relates to incident); *see also* Open Records Decision 586 (1991) (need of another governmental body to withhold requested information may provide compelling reason for nondisclosure under section 552.108).

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 129259

Encl. Submitted documents

cc: Mr. Eloy Padilla
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(w/o enclosures)