



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 25, 2010

Ms. Meridith L. Hayes
Abernathy, Roeder, Boyd & Joplin, P.C.
For Mansfield Independent School District
P.O. Box 1210
McKinney, Texas 75070-1210

OR2010-02835

Dear Ms. Hayes:

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# 371314.

The Mansfield Independent School District (the "district"), which you represent, received a request for all reports pertaining to a specified incident involving the requestor's child. You state the district has provided some of the requested information to the requestor. You claim the submitted incident report is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, 552.137, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Initially, we note, in the requestor's comments submitted to this office, the requestor has specifically excluded from her request all names other than her child's name. Thus, any name besides the requestor's child's name is not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

Next, it appears the district has redacted student-identifying information in the submitted incident report pursuant to the Family Educational Rights and Privacy Act ("FERPA"),

section 1232g of title 20 of the United States Code. However, FERPA is not applicable to law enforcement records maintained by the district's police department (the "department") that were created by the department for a law enforcement purpose. *See* 20 U.S.C. § 1232g(a)(4)(B)(ii); 34 C.F.R. §§ 99.3, .8. The submitted incident report consists of law enforcement records prepared by the department. Thus, the submitted incident report is not subject to FERPA, and no portion of it may be withheld on that basis.

Next, we note the submitted incident report is a law enforcement record of a juvenile. Pursuant to section 58.007(c) of the Family Code, juvenile law enforcement records are confidential. *See* Fam. Code § 58.007(c). In this instance, however, the requestor is the mother of the juvenile suspect listed in the report. As such, the district may not withhold the submitted report from this requestor under section 58.007(c) of the Family Code. *See id.* § 58.007(e) (providing law enforcement records subject to section 58.007(c) may be inspected or copied by the child's parent). We also note section 58.007(j) provides that, notwithstanding section 58.007(e), any information that is excepted from required disclosure under the Act or other law may still be withheld from disclosure. *See id.* § 58.007(j)(2). We will, therefore, consider your arguments under sections 552.101, 552.102, 552.108, 552.117, 552.137, and 552.147 of the Government Code.

Section 552.108(a)(1) 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[.]" *Id.* § 552.108(a)(1). A governmental body claiming section 552.108 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 incident report pertains to a pending criminal investigation. We note the submitted information contains a citation that has been provided to the individual who was cited. Because you have not provided additional arguments explaining how further release of the citation would interfere with the pending criminal investigation, we find the district may not withhold the citation under section 552.108(a)(1). We find, however, based on your representations and our review, the release of the remaining information 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), *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 you acknowledge, 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). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*, and includes the identity of the complainant and a detailed description of the offense. *See* 531 S.W.2d at 186-88. You assert the basic information should be withheld in its entirety to protect the identities of the victim and witnesses. We note, however, basic

information does not include witness-identifying information or victim-identifying information, unless the victim is also the complainant. In this instance, because the victim is not the complainant, the victim's information is not part of basic information. You further contend the complainant's identifying information should be withheld from disclosure. In this instance, however, because the requestor has made the complainant's name non-responsive, the basic information does not contain any complainant-identifying information. Thus, we need not address your arguments against disclosure regarding the complainant's identity. Therefore, with the exception of the citation and basic information, the district may withhold the submitted incident report under section 552.108(a)(1) of the Government Code.¹

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 371314

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure.