



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 17, 2010

Ms. Kelli H. Karczewski
Karczewski Bradshaw L.L.P.
Attorney for Cushing Independent School District
315 North Church Street
Nacogdoches, Texas 75961

OR2010-12458

Dear Ms. Karczewski:

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# 390690.

The Cushing Independent School District (the "district"), which you represent, received a request for names and ages of those involved in a specified incident and the report, complaints, video recordings, and investigation results relating to the incident. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which you have labeled Exhibits D, E, and F, is not responsive to the present request, because it was created after the date the district received the request. The district need not release nonresponsive information in response to this request, and this ruling will not address that 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.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to a pending

investigation or prosecution of criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1987). Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld. *See* ORD 474. In this instance, you have not provided this office with any representation from a law enforcement agency that the submitted information should be withheld from disclosure. We therefore conclude the district may not withhold any of the responsive information under section 552.108 of the Government Code. As you raise no further exceptions to disclosure, the district must release the responsive information.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 390690

Enc. Submitted documents

c: Requestor
(w/o enclosures)