



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2013

Mr. Jaime J. Munoz
Attorney for the La Joya Independent School District
Law Office of Jaime J. Munoz
P.O. Box 47
San Juan, Texas 78589

OR2013-20925

Dear Mr. Munoz:

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# 507307.

The La Joya Independent School District (the "district"), which you represent, received a request for information pertaining to case number 2013-05-0051. You claim the submitted information is excepted from disclosure under sections 552.108, 552.117, and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). We note section 552.108 is generally not applicable to the records of an internal affairs investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open

Records Decision No. 350 at 3-4 (1982). However, you inform us the submitted information relates to a criminal investigation by the district's police department that did not result in conviction or deferred adjudication. Based on your representations and our review, we agree section 552.108(a)(2) is applicable to the submitted information.

However, 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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other items, the identification and description of the complainant. *See* ORD 127. Thus, with the exception of the basic information, the district may withhold the submitted information under section 552.108(a)(2) of the Government Code.¹

Next, you contend some of the basic information is confidential under section 552.135 of the Government Code. Section 552.135 provides the following:

- (a) "Informer" means a student or a former student or an employee or former employee of a school district who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.
- (b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov't Code § 552.135(a)-(b). You indicate the complainant's identifying information is excepted from disclosure under section 552.135. In this instance, however, the requestor is the attorney for the complainant, who is a student, and her parents. Section 552.135(c)(1) provides an informer's identifying information is not excepted from disclosure "if the informer is a student or former student, and the student or former student, or the legal guardian . . . of the student or former student consents to disclosure of the student's or former student's name[.]" *Id.* § 552.135(c)(1). Accordingly, the requestor has a right of access to the complainant's identifying information under section 552.135(c)(1). Consequently, we find none of the basic information may be withheld under section 552.135 of the Government Code.

¹As our ruling is dispositive, we need not consider your remaining argument against disclosure of this information.

In summary, with the exception of basic information, which must be released, the district may withhold the submitted information under section 552.108(a)(2) 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/ac

Ref: ID# 507307

Enc. Submitted documents

c: Requestor
(w/o enclosures)