



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 23, 2014

Ms. Patricia Guidry
Director of Risk Management
Aldine Independent School District
14910 Aldine-Westfield Road
Houston, Texas 77032-3099

OR2014-23353

Dear Ms. Guidry:

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# 553719.

The Aldine Independent School District (the "district") received a request for a specified video recording. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code in conjunction with the Family Education Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code, and section 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert the submitted video recording is excepted from disclosure under FERPA. However, FERPA is not applicable to law enforcement records maintained by the district's police department for law enforcement purposes. *See* 20 U.S.C. § 1232g(a)(4)(B)(ii); 34 C.F.R. §§ 99.3, .8. You inform us the submitted video recording consists of a law enforcement record held by the district's police department for a law enforcement purpose. Thus, the submitted information is not subject to FERPA, and no portion of it may be withheld on that basis. However, we will consider your remaining argument against disclosure of the submitted information.

Section 552.108(a)(1) 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 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 inform us, and provide documentation showing, the submitted information pertains to a pending criminal investigation. Based on your representation and our review, we conclude release of the submitted information would interfere with the detection, investigation, or prosecution of a crime and section 552.108(a)(1) is applicable in this instance. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the district may withhold the submitted information under section 552.108(a)(1) 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/ds

Ref: ID# 553719

Enc. Submitted documents

c: Requestor
(w/o enclosures)