



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 16, 2016

Ms. Jenny Wells  
General Counsel  
Leander Independent School District  
P.O. Box 218  
Leander, Texas 78646

OR2016-06084

Dear Ms. Wells:

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# 601788 (PIR# 1527).

The Leander Independent School District (the "district") received a request for personnel records for a named individual, information pertaining to any investigations of the named individual for possible misconduct with students, and any documentation to the Texas Education Agency pertaining to the named individual and possible misconduct with students. You state you have released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed 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(a)(1) 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). By

its terms, section 552.108 applies only to a law enforcement agency or a prosecutor. A school district is not a law enforcement agency. However, this office has concluded section 552.108 may be invoked by any proper custodian of information that relates to the underlying incident. *See* Open Records Decision Nos. 474 (1987), 372 (1983). Where a non-law enforcement agency has custody of information related to an ongoing criminal investigation 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 is related to an ongoing criminal investigation and a representation from a law enforcement entity that it wishes to have the information withheld.

You state the Travis County Constable's Office, Precinct 2 (the "constable's office") objects to the release of the information you marked because its release would interfere with an open and ongoing criminal investigation. Based on this representation and our review, we find release of the information at issue 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) (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 information you marked under section 552.108(a)(1) of the Government Code on behalf of the constable's office.<sup>1</sup>

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code, except as provided by section 552.024(a-1).<sup>2</sup> *See* Gov't Code §§ 552.117(a)(1), .024. Section 552.024(a-1) of the Government Code provides, "A school district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number." *Id.* § 552.024(a-1). Thus, a school district may only withhold under section 552.117 the home address and telephone number, emergency contact information, and family member information of a current or former employee or official of the district who requests this information be kept confidential under section 552.024. Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official who made a request for confidentiality under section 552.024

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

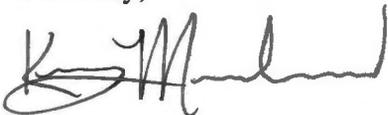
prior to the date of the governmental body's receipt of the request for the information. Section 552.117 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Accordingly, if the individual whose information is at issue timely requested confidentiality pursuant to section 552.024 and the cellular telephone service is not paid for by a governmental body, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code. However, if the individual whose information is at issue did not make a timely election under section 552.024 or the cellular telephone service is paid for by a governmental body, the district may not withhold the information we have marked under section 552.117(a)(1) of the Government Code.

In summary, the district may withhold the information you marked under section 552.108(a)(1) of the Government Code on behalf of the constable's office. To the extent the individual whose information is at issue timely requested confidentiality under section 552.024 of the Government Code, and the cellular telephone service is not paid for by a governmental body, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The district must release the remaining 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/som

Ref: ID# 601788

Enc. Submitted documents

c: Requestor  
(w/o enclosures)