



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 14, 1995

Mr. James M. Whitton
McLean & Sanders
100 Main Street
Fort Worth, Texas 76102-3090

OR95-754

Dear Mr. Whitton:

On behalf of the Seguin Independent School District, you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 29941.

The Seguin Independent School District (the "school district") has received a request for "each and every document that was turned over to the Guadalupe County Sheriff's Department, police department and/or district attorney's office for the investigation of Sandee D'Allessandro for criminal charges." You have submitted the requested information to us for review and claim that sections 552.103, 552.108, and 552.111 of the Government Code except it from required public disclosure.

We agree that section 552.108 of the Government Code excepts the requested information from disclosure unless the investigation or prosecution has been completed. Section 552.108 excepts from required public disclosure "[a] record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime" and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." When applying section 552.108, this office distinguishes between information relating to cases that are still under active investigation and other information. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing 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); Open Records Decision No. 127 (1976).

Otherwise, when the "law enforcement" exception is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how its release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) at 2 (citing *Ex parte Pruitt*, 551 S.W.2d 706, 110 (Tex. 1977)).

You advise us that the information at issue here relates to an active criminal investigation. In addition, you advise us that the school district prepared the requested information at the request of Sequin Police Department and the Guadalupe County District Attorney. Finally, we understand that the district attorney handling the investigation objects to the information's release on the grounds that release would interfere with the investigation. We conclude, therefore, that the school district may withhold the requested information under section 552.108 of the Government Code provided that the circumstances have not changed. As we resolve this matter under section 552.108, we need not address the applicability of sections 552.103 and 552.111 at this time.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Ref.: ID# 29941

Enclosures: Submitted documents

cc: Mr. Kenneth D. Brazle
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(w/o enclosures)