



January 2, 2001

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204-5491

OR2001-0006

Dear Ms. McGowan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 142743.

The Dallas Independent School District (the "district") received a request for information regarding unauthorized purchases by district employees. You claim that the requested 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.

Section 552.108, the "law enforcement exception" applies to certain information held by a law enforcement agency or prosecutor. Gov't Code § 552.108. The Dallas Independent School District is neither a law enforcement agency nor a prosecutor. This exception may be asserted by a custodian of records on behalf of another governmental body which is a law enforcement agency or prosecutor. *See, e.g.*, Open Records Decision Nos. 474 (1987), 372 (1983) (where incident involving allegedly criminal conduct is still under active investigation or prosecution, section 552.108 may be invoked by any proper custodian of information which relates to incident); *see also* Open Records Decision No. 586 (1991) (need of another governmental body to withhold requested information may provide compelling reason for nondisclosure under section 552.108). However, you do not assert the interests of any other law enforcement agency or prosecutor. Further, in construing the statutory predecessor to section 552.108, this office concluded that if an investigation by an administrative agency reveals possible criminal conduct that the agency intends to report or already has reported to the appropriate law enforcement agency, the agency may invoke the law enforcement exception to protect information that relates to an open investigation or information the release of which would interfere with law enforcement. *See* Attorney General Opinion MW-75 at 1-2 (1982); Open Records Decision No. 493 at 2 (1988). You have not indicated that you intend to release, or have released, the responsive information to an appropriate law

enforcement agency. Consequentially, we conclude that you have not demonstrated that the district may withhold the responsive information under section 552.108 of the Government Code. This information must therefore be released to this requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

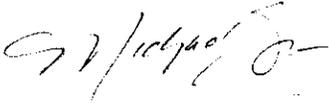
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns". The signature is written in a cursive style with a horizontal line extending to the right.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/er

Ref: ID# 142743

Encl: Submitted documents

cc: Mr. Delbert Hawkins
2608 Rochester
Dallas, Texas 75215
(w/o enclosures)