



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 20, 2009

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2009-10023

Dear Mr. Mann:

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# 349460 (GCA09-0364 and GCA09-0365).

The Garland Police Department (the "department") received two requests for a specified incident report. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 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 concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state that the submitted information relates to a concluded investigation that "did not result in a conviction or deferred adjudication." Based on your representation and our review, we conclude that the department may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

Next, section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information protected by other statutes. *See* Gov't Code § 552.101.

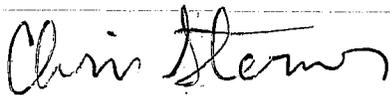
Section 21.12(a) of the Penal Code provides that “[a]n employee of a public or private primary or secondary school commits an offense if the employee engages in . . . (1) sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works and who is not the employee’s spouse[-.]” Penal Code § 21.12(a)(1). We further note that section 21.12(d) provides that “[t]he name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by subsection (a) may not be released to the public and is not public information under Chapter 552, Government Code.” *Id.* § 21.12(d). Thus, the identifying information you have marked of the student allegedly involved in an improper relationship with an educator is confidential under section 21.12, and must be withheld under section 552.101 of the Government Code.¹

In summary, (1) the department may withhold the information you have marked under section 552.108(a)(2) of the Government Code; and (2) the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 21.12(d) of the Penal Code. The remaining information must be released to the requestors.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 349460

Enc. Submitted documents

c: Requestor
(w/o enclosures)