



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2009

Mr. S. Anthony Safi
Mounce, Green, Myers, Safi, Paxson & Galatzan
P.O. Box 1977
El Paso, Texas 79950-1977

OR2009-11401

Dear Mr. Safi:

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# 352253.

The El Paso Independent School District (the "district") received three requests from different requestors for district police incident report number 09-0500211. You claim the submitted incident report is excepted from disclosure under sections 552.108 and 552.135 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 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 state incident report number 09-0500211 pertains to a pending criminal investigation being conducted by the district's police department (the "department"). Based on your representations and our review, we determine the release of this information 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), *writ ref'd n.r.e. per*

curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes the identity of the complainant and a detailed description of the offense, but does not include the identification and description of witnesses. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). You assert that, in this instance, because no arrest has been made and neither the department nor the El Paso District Attorney's Office has determined that a crime was committed, section 552.108(c) does not apply to the submitted information, and, therefore, basic information need not be released. We note, however, that section 552.108 applies to, among other things, information pertaining to the detection, investigation, and prosecution of alleged crimes, and does not require an arrest or a definitive determination that a crime occurred. See Gov't Code § 552.108. Therefore, as we have previously found, based on your representations and our review, that section 552.108(a)(1) applies to the submitted information, we also find section 552.108(c) necessarily applies. You claim, however, the complainant's identifying information is excepted from disclosure under section 552.135 of the Government Code.

Section 552.135 of the Government Code provides:

(a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

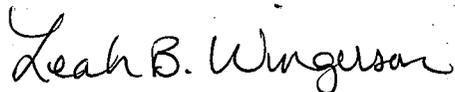
Id. § 552.135. You indicate the complainant's identifying information is excepted under section 552.135 because the complainant reported a possible violation of criminal law to the department. Based on your representation and our review, we conclude the district must withhold the complainant's identifying information from the basic information under section 552.135 of the Government Code. The remaining basic information must be released.

In summary, with the exception of basic information, the district may withhold the submitted incident report under section 552.108(a)(1) of the Government Code. In releasing the basic information, the district must withhold the complainant's identifying information under section 552.135 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.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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 352253

Enc. Submitted documents

c: Requestors
(w/o enclosures)