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ATTORNEY GENERAL OF TEXAS

August 9, 2019

Mr. Pete Thompson
Counsel for the Cedar Hill Independent School District
Clark Hill Strasburger
901 Main Street, Suite 6000
Dallas, Texas 75202-3794

OR2019-22098

Dear Mr. Thompson:

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# 779263 (Ref. No. CHISD 0006).

The Cedar Hill Independent School District (the "district"), which you represent, received a request for information pertaining to a specified incident and a named individual involved in the incident. You state the district has released some of the requested information with redactions made pursuant to section 552.024(c)(2) of the Government Code.¹ You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we understand the district has redacted some of the submitted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code. The United States Department of Education Family Policy Compliance Office has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted,

¹Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2).

personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act.² See 34 C.F.R. § 99.3 (defining “personally identifiable information”). Because our office is prohibited from reviewing education records, we will not address the applicability of FERPA to any of the submitted records, except to note FERPA is not applicable to law enforcement records maintained by the district’s police department (the “department”) that were created by the department for a law enforcement purpose. See 20 U.S.C. § 1232g(a)(4)(B)(ii); 34 C.F.R. §§ 99.3, 99.8.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must 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). The district states the information you marked pertains to an active criminal investigation by the department. Based upon this representation, we conclude the 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, section 552.108(a)(1) is applicable to the information you marked.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-87; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other items, a sufficient portion of the narrative to include a detailed description of the incident. See ORD 127 at 3-4. Accordingly, with the exception of basic information, which must be released, the district may withhold the information you marked under section 552.108(a)(1) of the Government Code.³

²A copy of this letter may be found on the Office of the Attorney General’s website at <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

³As our ruling is dispositive, we need to address your remaining arguments against disclosure of this information. We note the requestor in this case has a right of access to information that would otherwise be confidential with respect to the general public. See Fam Code § 261.201(k) (parent or other legal representative of child victim of abuse or neglect has right of access to information otherwise confidential under section 261.201(a) of the Family Code), (l)(2) (providing any information excepted from required disclosure under the Act or other law must be withheld from disclosure). Thus, if the district receives another request for this same information from a different requestor, the district must again seek a ruling from this office. See Gov’t 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.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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/mo

Ref: ID# 779263

c: Requestor