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ATTORNEY GENERAL OF TEXAS

April 13, 2020

Mr. S. Anthony Safi
Counsel for El Paso Independent School District
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P.O. Box 1977
El Paso, Texas 79999

OR2020-10775

Dear Ms. 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# 821527 (ORR# W002448-012120).

The El Paso Independent School District (the "district"), which you represent, received a request for information pertaining to a specified incident. You claim 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 "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information pertains to a criminal investigation that concluded in a result other than conviction or deferred adjudication. Based on your representation, we agree section 552.108(a)(2) is applicable to the submitted information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the

information held to be public in *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). *See also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). You assert the district need not release basic information in this instance on the basis of the decision in *City of Carrollton v. Paxton*, 490 S.W.3d 187 (Tex. App.—Austin 2016, pet. denied). The court in the *Carrollton* case stated “there can be no ‘basic information’ subject to disclosure under [section 552.108(c)] unless there has been ‘an arrest’ or ‘a crime[,]’ [which] would require, in the very least, some sort of determination by law enforcement that a crime has actually occurred, if not also an arrest made, similar to the circumstances addressed in *Houston Chronicle*.” *Carrollton*, 490 S.W.3d at 200. Pursuant to the court’s decision in *Carrollton*, and your briefing, we conclude section 552.108(c) of the Government Code is not applicable to the submitted information. Accordingly, the district may withhold the submitted information under section 552.108(a)(2) of the Government Code.¹

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Meagan Hunter
Assistant Attorney General
Open Records Division

MH/mo

Ref: ID# 821527

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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