



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 22, 2020

Ms. Ellen H. Spalding  
Counsel for the Klein Independent School District  
Karzewski, Bradshaw, Spalding, Nichols, Lamp, Langlois  
3700 Buffalo Speedway, Suite 560  
Houston, Texas 77098

OR2020-11406

Dear Ms. Spalding:

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# 823468.

The Klein Independent School District (the "district"), which you represent, received a request for all district police department records related to a specified case number. You state to the extent responsive information exists that constitutes student records and contains personally identifiable information of district students that are not the requestor's child, such information will be withheld in accordance with the Family Educational Rights and Privacy Act ("FERPA"), section 1232 of Title 20 of the United States Code.<sup>1</sup> The district claims the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions the

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<sup>1</sup> The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or student consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. A copy of this letter may be found on the Office of the Attorney General's website: <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/20060725-USDept-Education.pdf>. We note records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of an educational agency or institution other than the law enforcement unit are not records of the law enforcement unit. See 34 C.F.R. § 99.8(b)(2).

district claims and reviewed the submitted representative sample of information information.<sup>2</sup>

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(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 submitted information pertains to an active criminal investigation or prosecution pending with the Harris County District’s Attorney’s Office. Based on 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 submitted information.<sup>3</sup>

However, we note 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information does not include the identities of suspects who are not arrestees. *See* ORD 127 at 3-4. Thus, with the exception of the basic information, which must be released to this requestor, the district may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>4</sup>

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.

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<sup>2</sup> We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

<sup>3</sup> As we are able to make this determination, we do not address the applicability of section 1701.661 (a) of the Occupations Code to the submitted video recordings. *See generally* Occ. Code § 1701.661(a), (e).

<sup>4</sup>As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991). We additionally note, and the district acknowledges, the requestor has a right of access to the information at issue pursuant to section 58.008(d) of the Family Code. *See* Fam. Code § 58.008(d); *but see id.* § 58.008(e)(2) (providing any information excepted from required disclosure under the Act or other law must be withheld from disclosure). If the district receives another request for this information from a different requestor, the district must again seek a ruling from this office. *See* Gov’t Code §§ 552.301, .302; Open Records Decision No. 673 (2001).

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,

Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MP/mo

Ref: ID# 823468

Enc. Submitted documents

c: Requestor  
(w/o enclosures)