



Office of the Attorney General

State of Texas

July 8, 1993

DAN MORALES

ATTORNEY GENERAL

Mr. J. Robert Giddings
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2981

OR93-436

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 20038.

The University of Texas System (the "system") has received a request "from Jonathan Key for a copy of any reports, files, and documents concerning him in the custody of the [University of Texas at Arlington Police Department]." You inform us that the system has no objection to releasing the front page of the offense report. The system contends, however, that the supplementary reports and three memorandums dated February 18, 1993, February 16, 1993, and February 10, 1993, are excepted from required public disclosure under section 3(a)(8) of the Open Records Act.

We note that the requestor made three requests for the information at issue on the following dates: March 9, 1993; March 23, 1993; and April 19, 1993. The University of Texas at Arlington Police Department (the "police department") states that in response to the requestor's first letter, it sent a letter dated March 16, 1993, but that the requestor did not receive it. In response to the requestor's second letter, the police department sent a letter stating that it was not the "official records custodian for the University." The third request from Johnathan Key, dated April 19, 1993, was in response to that letter.

The Open Records Act places an implicit duty on a chief administrative officer of an agency to instruct his or her staff about compliance with the Open Records Act and to make public the identity of persons to whom a request should be directed. Open Records Decision No. 576 (1990). The time period for the ten day deadline, however, begins to run when the governmental body receives a request, not when the custodian receives the request. V.T.C.S. art. 6252-17a, § 7(a). By requiring the requestor to resubmit the first and second requests rather than forwarding them to the custodian of records, and by failing to respond to the first and second requests by providing documents or seeking a

ruling from this office within ten days, the police department violated the ten day deadline. Once the ten day deadline has passed, the information is presumed public unless compelling reasons for withholding the information, such as third party privacy, can be shown by the governmental body. Open Records Decision No. 319 (1982).

Section 3(a)(8) excepts

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

Information relating to witnesses, informants, and other sources of investigatory information may be withheld under section 3(a)(8) even where a matter has been closed by conviction, acquittal, or administrative decision, if it is determined that disclosure might subject witnesses to possible intimidation or harassment, or harm the prospects of future cooperation of witnesses. Open Records Decision No. 297 (1981); *see also* Open Records Decision No. 397 (1983).

You claim that "disclosure of the details of the comments made about [the requestor in the documents at issue] may result in threats or harmful actions directed towards [the complainants] by [the requestor] in the future." We have reviewed the information and find that the documents on their face support your assertion. Because you have raised a compelling reason, *i.e.*, the possible intimidation or physical harm of a third party, you may withhold the supplementary reports and memoranda listed above from required public disclosure under section 3(a)(8).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Open Government Section
Opinion Committee

MRC/LBC/jmn

Ref.: ID# 20038

cc: Mr. Johnathan Key
1300 West Park Row
Arlington, Texas 76013