



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1995

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

OR95-1619

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 25584.

The University of Texas System (the "university") has received a request for "[o]ffense, incident and arrest reports," witness statements and other documents pertaining to a July 1992 assault case involving a juvenile. The university asserts that the requested information is excepted from public disclosure under sections 552.108 and 552.101.

Section 552.108 provides that:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure].

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure].

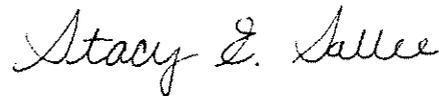
After a file has been closed, either by prosecution or by administrative decision, the availability of section 552.108 is greatly restricted. Open Records Decision No. 320 (1982). The test for determining whether information regarding closed investigations is excepted from public disclosure under section 552.108 is whether release of the records would unduly interfere with the prevention of crime and the enforcement of the law. Open Records Decision No. 553 (1990) at 4 (and cases cited therein). A governmental body claiming the "law enforcement" exception must reasonably explain how and why release of the requested information would unduly interfere with law enforcement and crime prevention. Open Records Decision No. 434 (1986) at 2-3.

According to records you submitted to this office, the defendant was convicted of the offense in November 1992. The university has not met its burden of explaining how and why release of the requested information would unduly interfere with law enforcement and crime prevention. Therefore, the information may not be withheld under section 552.108.

The university also asserts that release of the requested information would implicate privacy interests of the juvenile crime victim, and that it is therefore excepted from required public disclosure under section 552.101. In Open Records Decision No. 628 (1994), this office reiterated that the identities of juvenile victims of sexual offenses are protected by common-law privacy. We have marked information on the requested documents that identifies or tends to identify the juvenile crime victim. This information must be withheld. The remaining information, however, must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/rho

Ref.: ID# 25584

Enclosures: Marked documents

cc: Mr. Jack H. Taylor, Jr.
7417 Whispering Pines Drive
Dallas, Texas 75248
(w/o enclosures)