



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 19, 1996

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

OR96-0575

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 39517.

The Executive Vice President of the University of Texas Medical Branch at Galveston (the "university") received a request for a certain campus police report. You assert that the requested report is excepted from required public disclosure based on sections 552.101 and 552.108 of the Government Code.

Section 552.108(a) of the Government Code reads as follows:

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].

Section 552.108(a) excepts from required public disclosure all information related to cases under active investigation except certain basic information ordinarily appearing on the first page of an offense report. *See 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); Open Records Decision No. 127 (1976).¹

¹Section 552.108(a) excepts from required public disclosure information related to inactive or closed cases only when its release would unduly interfere with law enforcement or prosecution. *See* Open Records Decision No. 616 (1993).

You inform us that the requested police report pertains to an open criminal investigation. Accordingly, we conclude that the university may withhold from required public disclosure the requested report, with the exception of the first-page offense report information, pursuant to section 552.108(a) of the Government Code.

You seek to withhold the requested report from disclosure under section 552.101 in order to preserve the common-law privacy right of the complainant. We only need consider whether common-law privacy applies to the first-page offense report information to which section 552.108 does not apply.

Section 552.101 excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.* We conclude that the public disclosure of the front-page offense report information does not implicate the complainant's common-law right to privacy.

We also note that the requested report contains information that may be excepted from required public disclosure pursuant to section 552.117 of the Government Code if the employee about whom that information concerns chose to have the information kept private in accordance with section 552.024 of the Government Code. *See* Open Records Decision Nos. 622 (1994), 530 (1989). We have marked the possible section 552.117 information.

We are resolving this matter with this 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 may 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,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 39517

Enclosures: Marked documents

cc: Ms. Carol J. Harvey
(w/o enclosures)