



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 25, 1997

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

OR97-2587

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111365.

The University of Texas at Arlington (the "university") received a request for information regarding an incident on October 29, 1995, involving an altercation between Sigma Chi and Kappa Alpha fraternities. You claim that a portion of the requested information has been "deemed education records" by the university and will not be disclosed pursuant to sections 552.026, 552.101, and 552.114 of the Government Code and in accordance with Open Records Decision No. 634 (1995).¹ You claim that the remaining requested information, consisting of law enforcement records, is excepted from disclosure under section 552.108 of the Government Code. We have considered the exceptions you claim for the remaining requested information, and have reviewed the submitted information.

Section 552.108 provides in part:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [public disclosure] if: (1) release of the information

¹In Open Records Decision No. 634 (1995), this office concluded that (1) an educational agency or institution may withhold from public disclosure information that is protected by the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, and excepted from required public disclosure by sections 552.026 and 552.101 without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception.

would interfere with the detection, investigation or prosecution of crime; [or] (2) 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; or (3) it is information that: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

You have provided a letter from the Chief of the university police department stating that the persons arrested in case number 95-14870 "had their cases dismissed." Under these circumstances, we conclude that section 552.108(a)(2) is applicable. We understand that you have already released the front page offense report information as required by section 552.108(c) and *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). You may withhold the remaining portions of the offense report which you submitted for our review from disclosure under section 552.108(a)(2).

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/ glg

Ref.: ID# 111365

Enclosures: Submitted documents

cc: Mr. Michael W. Minton