



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

February 20, 1989

Mr. Robert Giddings  
University of Texas System  
Office of General Counsel  
201 West 7th Street  
Austin, Texas 78701

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# 5367; this decision is OR89-65.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

You received a request from a student for copies of all campus police reports that pertain to him. The request was made pursuant to section 3(a)(14) of the act. You assert that the information requested is exempt from required disclosure under section 3(a)(8), and the informer's privilege as incorporated into section 3(a)(1). This office holds that the information is exempt under section 3(a)(8). Your other argument will not be addressed, but this office notes that given the facts underlying the complaints it is a near certainty that the requestor knows the complainant's identity. Therefore, the informer's privilege is inapplicable. See Open Records Decision No. 208 (1978).

Federal law permits a college or university police department to deny student access to records concerning the student as long as the police department records are

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maintained apart from education records and disclosable only to law enforcement officials of the same jurisdiction. 20 U.S.C. § 1232g(a)(4)(B)(ii); Open Records Decision Nos. 342 (1982); 205 (1978). You may withhold the requested records to the extent this requirement is met. If the requested records are not maintained separately from education records, or are disclosed to academic personnel, then you must comply with the request. See V.T.C.S. art. 6252-17a, § 3(a)(14); see also Open Records Decision No. 431 (1985).

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 refer to OR89-65.

Yours very truly,

*Open Government Section  
of the Opinion Committee* 

Open Government Section  
of the Opinion Committee  
Prepared by Patricia Barnhard  
Assistant Attorney General

PB/bc

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Ref.: ID# 5367

Enc. (copies of records submitted)