



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 8, 2015

Ms. Veta J. Byrd-Pérez
Associate General Counsel
Rice University
P.O. Box 1892
Houston, Texas 77251-1892

OR2015-25661

Dear Ms. Byrd-Pérez:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the “Act”), chapter 552 of the Government Code. Your request was assigned ID# 590136 (RUPD Records Request No. 2015-001).

The Rice University Police Department (the “department”) received a request for all police reports related to incidents where force was used by a department police officer during a specified time period.¹ You state the department has released some information to the requestor. You argue the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note you have submitted information that is not responsive to the instant request because it does not consist of a police report. This ruling does not address the public

¹You state, and provide documentation showing, you sought and received clarification of the request for information. See Gov’t Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.²

Next, we address your claim the submitted information is not subject to the Act. We note the 84th Legislature added section 51.212(f) of the Education Code, which reads as follows:

(f) A campus police department of a private institution of higher education is a law enforcement agency and a governmental body for purposes of [the Act], only with respect to information relating solely to law enforcement activities.

Educ. Code § 51.212(f). You inform us the department is a campus police department of a private institution of higher education. *See id.* §§ 51.212(e), 61.003. Thus, you acknowledge the department is a governmental body for purposes of the Act with regard to information maintained by the department only to the extent to which such information relates solely to law enforcement activities. You argue the submitted information does not relate solely to law enforcement activities, but also to the enforcement of university regulations. You state the department “is tasked with enforcing Rice[University’s] institutional policies as well as investigating and enforcing criminal laws.” You argue, because the submitted information “reflects the authority exercised by a private property owner and not the exercise of government granted authority solely related to law enforcement activities,” it is not subject to the Act. However, upon review, we find the submitted information relates to investigations into the potential violations of criminal statutes by the department. *See, e.g.*, Penal Code §§ 30.05(a) (criminal trespass), 42.01(a) (disorderly conduct). Therefore, we find the submitted information is related solely to law enforcement activities for purposes of section 51.212(f) of the Education Code, and, thus, is subject to the Act. Accordingly, we will address your claimed exceptions to disclosure for the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the submitted information pertains to a criminal investigation that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531

²As our ruling is dispositive for this information, we need not address your arguments against its disclosure.

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). See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information does not include motor vehicle record information subject to section 552.130 of the Government Code. Thus, with the exception of basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.³

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 590136

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address your remaining arguments against disclosure.