



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 13, 2016

Mr. Robert Chavez  
Chief of Police  
University of the Incarnate Word  
4301 Broadway  
San Antonio, Texas 78209

OR2016-08276

Dear Mr. Chavez:

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# 607902.

The University of the Incarnate Word Police Department (the "department") received a request for information related to on-campus drug and alcohol violations involving students during a specified time frame. You assert some of the submitted information is not subject to the Act. Alternatively, you claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it does not involve students. This ruling does not address the public 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.

Next, you assert some of the remaining police reports are not subject to release under the Act. Section 51.212(f) of the Education Code reads as follows:

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). We understand the department is a campus police department of a private institution of higher education. *See id.* §§ 51.212(e), 61.003. Thus, the department is a governmental body for purposes of the Act, and information maintained by the department is subject to disclosure under the Act, to the extent such information relates solely to law enforcement activities. We understand the remaining police reports are maintained by the department. However, you assert some of the reports do not relate solely to law enforcement activities and, thus, are not subject to release under the Act pursuant to section 51.212(f). Nevertheless, these reports were created by the department for the purpose of law enforcement. Therefore, we find these police reports relate solely to law enforcement activities for purposes of section 51.212(f) of the Education Code, and thus are subject to the Act. Accordingly, this information must be released, unless it falls within an exception to public disclosure under the Act. *See Gov't Code* §§ 552.006, .021, .301, .302. Consequently, we will consider your argument against disclosure of this information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”<sup>1</sup> *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 58.007(c) of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. Section 58.007(c) provides, in relevant part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct.

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision* Nos. 481 (1987), 480 (1987), 470 (1987).

*See id.* § 51.02(2). A portion of the responsive information involves juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03(a)-(b) (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). It does not appear any of the exceptions in section 58.007 apply. Therefore, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.<sup>2</sup>

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 remaining responsive information pertains to cases that did not result in 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 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*). Thus, with the exception of basic information, the department may withhold the remaining responsive information under section 552.108(a)(2) of the Government Code.

In summary, this ruling does not address the public availability of any information that is not responsive to the request. The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. With the exception of basic information, which must be released, the department may withhold the remaining responsive information under section 552.108(a)(2) of the Government Code.

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.

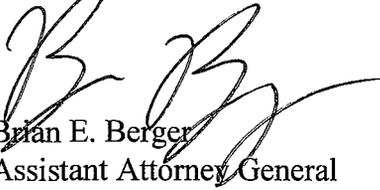
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>2</sup>As our ruling is dispositive, we do not address your other argument to withhold this information.

[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,



Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 607902

Enc. Submitted documents

c: Requestor  
(w/o enclosures)