



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 18, 2016

Ms. Jennifer Burnett
Office of the General Counsel
The University of Texas System
201 West Seventh Street, Suite 600
Austin, Texas 78701-2901

OR2016-11427

Dear Ms. Burnett:

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# 612353 (OGC# 168220).

The University of Texas at Tyler (the "university") received a request for the names and identifying information of individuals who made specified complaints regarding the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor seeks only the names and identifying information of the individuals who made the specified complaints, which we have marked. You have submitted documents that contain information beyond the requested information. Thus, the portions of the submitted documents that do not consist of the names and identifying information of the individuals are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request and the university is not required to release such information in response to the request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935 (Tex. Crim.

App. 1969). The informer's privilege protects from disclosure the identity of a person who has reported activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided the subject of the information does not already know the informer's identity. *See* Open Records Decision No. 208 at 1-2 (1978). The informer's privilege protects the identity of an individual who has reported violations of statutes to the police or similar law-enforcement agencies, as well as an individual who has reported violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 1-2 (1981) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J. McNaughton Rev. Ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4 (1988).

You state the responsive information we have marked identifies complainants who reported potential violations of law to the university police department. We understand the university police department has criminal law-enforcement authority over the matters at issue. We also understand a violation of the relevant law is a misdemeanor punishable by fine. *See* Penal Code § 30.05 (criminal trespass). You further state the subject of the complaint is not aware of the identities of the complainants. Based on these representations and our review, we conclude you have demonstrated the applicability of the common-law informer's privilege to the information at issue. Therefore, the university may withhold the responsive information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

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 a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information. Thus, the university may withhold the remaining responsive information, which we have marked, under section 552.108(a)(2) of the Government Code.

In summary, this ruling does not address the public availability of any non-responsive information, and the university is not required to release such information in response to the request. The university may withhold the responsive information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The university may withhold the remaining responsive information, which we have marked, 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/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,

A handwritten signature in black ink, appearing to read "B. Berger", written over the word "Sincerely,".

Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 612353

Enc. Submitted documents

c: Requestor
(w/o enclosures)