KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 2, 2016

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

OR2016-09862

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# 608016 (RUPD Reference No. 2016-003).

The Rice University Police Department (the "department") received a request for information involving on-campus drug and alcohol violations by Rice University (the "university") students for a specified time period. You argue some of the requested information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.137 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, 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 "when a [department] officer first begins interacting with a student, he is not solely performing law enforcement activities." Instead, you argue "[t]he interaction has the potential for becoming an investigation and enforcement of [university] policies, or for becoming an investigation and enforcement of criminal statutes." Because the incidents being investigated in the information at issue did not result in a student being taken into custody or the filing of criminal charges, you argue section 51.212(f) is inapplicable. However, upon review, we find the information at issue relates to investigations into the potential violations of criminal statutes by the department. 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.

Section 552.108(a)(2) of the Government Code excepts from disclosure information dealing with the detection, investigation, or prosecution of crime only in relation to 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 requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The department states the submitted information relates to concluded cases that did not result in conviction or deferred adjudication. Based on the department's representation, we conclude section 552.108(a)(2) is applicable to the information at issue.

Section 552.108, however, 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 Publ'g 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 (1976) (summarizing types of information made public by *Houston Chronicle*). We note basic information does not include information subject to section 552.130 of the Government Code. *See* ORD 127 at 3-4. 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.[1]

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.

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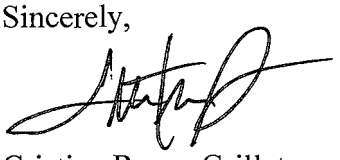
[1]As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/bw

Ref: ID# 608016

Enc. Submitted documents

c: Requestor
(w/o enclosures)