



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 27, 2017

Ms. Cynthia Tynan
Senior Attorney & Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West 7th Street, Suite 600
Austin, Texas 78701-2901

OR2017-01944

Dear Ms. Tynan:

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# 643256 (OGC# 172623).

The University of Texas Medical Branch at Galveston (the "university") received a request for information pertaining to four specified investigations. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note you have redacted information from the submitted documents. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code § 552.301(a), (e)(1)(D). You do not assert, nor does our review of our records indicate, you have been

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

granted a previous determination to withhold such information without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). In this instance, we are able to discern the nature of the information that has been redacted; thus, being deprived of that information does not inhibit our ability to make a ruling. Nevertheless, be advised that a failure to provide this office with requested information generally deprives us of the ability to determine whether information may be withheld and leaves this office with no alternative other than ordering the redacted information be released. *See Gov't Code* § 552.301(e)(1)(D) (governmental body must provide this office with copy of "specific information requested"); *id.* § 552.302. Thus, in the future, the university should refrain from redacting, without authorization, any information it submits to this office in seeking an open records ruling.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 51.971 of the Education Code, which provides, in relevant part, the following:

(a) In this section:

(1) "Compliance program" means a process to assess and ensure compliance by the officers and employees of an institution of higher education with applicable laws, rules, regulations, and policies, including matters of:

(A) ethics and standards of conduct;

(B) financial reporting;

(C) internal accounting controls; or

(D) auditing.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

...

(c) The following are confidential:

(1) information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, or

participated in an investigation conducted under the compliance program; and

(2) information that directly or indirectly reveals the identity of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office of an institution of higher education if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.

(d) Subsection (c) does not apply to information related to an individual who consents to disclosure of the information.

Educ. Code § 51.971(a), (c)-(d). You inform us the university is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). You inform us the submitted information relates to investigations that were undertaken by the university's Correctional Managed Care Department. You state the investigations were conducted in response to allegations of university employee misconduct and were initiated in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Based on your representations, we find this information relates to investigations conducted under the university's compliance program. *See id.* § 51.971(a)(1).

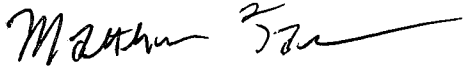
You state the submitted information relates to concluded compliance matters. You state the claims to which the information at issue pertains were determined to be substantiated. You inform us only a small subset of individuals were involved in the investigation at issue. You explain, and have provided a statement (the "statement") demonstrating, the requestor was a party to the incidents at issue and has specific knowledge of the incidents. The statement explains release of the information at issue would directly or indirectly reveal the identities of those individuals who participated in the investigations or provided information because the requestor knows each person's involvement in the events at issue. You inform us none of these individuals have consented to release of their information. Upon review, we agree release of the documents at issue would directly or indirectly identify individuals as complainants or as participants in the compliance program investigation. *See id.* § 51.971(c)(1). However, we note the requestor is one of the individuals whose information is subject to section 51.971(c). Thus, pursuant to section 51.971(d), we find the requestor has a right of access to information pertaining solely to himself, and such information, which we have marked for release, may not be withheld from her under section 552.101 in conjunction with section 51.971(c). *Cf.* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, with the exception of the information we marked, the university must withhold the submitted information under section 552.101 of the Government Code in conjunction

with section 51.971(c)(1) of the Education Code.² As no further exceptions have been raised, the university must release the remaining information.

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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

Ref: ID# 643256

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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