



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 12, 2019

Captain Clemente Rodriguez
Public Information Officer
Rice University Police Department
6100 Main Street
Houston, Texas 77005-1827

OR2019-04069

Dear Captain Rodriguez:

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# 750189 (RUPD Request# 2018-046).

The Rice University Police Department (the "department") received a request for eight categories of information related to violations of policy, misconduct, and/or convictions of department officers during a specified time period. You state you do not have information responsive to portions of the request.¹ You claim the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, and 552.119 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.²

Section 51.212(f) of the Education Code reads as follows:

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²We 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 those records contain substantially different types of information than that submitted to this office.


(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). 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. However, you represent the information at issue does not relate “solely to law enforcement activities.” Rather, you argue the information at issue consists of personnel information maintained by the department. Upon review, we agree the information at issue is administrative in nature and does not relate solely to law enforcement activities. *See id.* § 51.212(f). Accordingly, we find submitted information is not subject to disclosure pursuant to section 51.212(f) of the Education Code, and need not be released.³

The department also asks this office to issue a previous determination concluding the information at issue is not subject to the Act under section 51.212 of the Education Code. Open Records Decision No. 673 (2001). We decline to issue such a previous determination at this time. Accordingly, 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,


Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/eb

³As our ruling is dispositive, we do not address the department’s other arguments to withhold this information.

Ref: ID# 750189

Enc. Submitted documents

c: Requestor
(w/o enclosures)