



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 20, 2009

Ms. Neera Chatterjee
University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2009-02254

Dear Ms. Chatterjee:

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# 335409.

The University of Texas at El Paso (the "university") received a request for information related to case number 080776. You state that you are withholding a social security number under section 552.147 of the Government Code.¹ You claim that some of the submitted information is not subject to the Act; alternatively, you claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, 552.136, 552.137 of the Government Code. We have considered your claims and reviewed the submitted information.

Initially, you assert that IP addresses, usernames, and the University of Texas Electronic Identification Numbers and/or Banner Ids ("UTEID") contained in the submitted records are not subject to the Act. In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. You inform our office that

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

when combined with an individual's password, the UTEID serves as "the required log on protocol to access the computer mainframe, the University's centralized hub that runs all its high-level electronic functions." You indicate that the UTEIDs are used solely to access the university's computer mainframe and that the UTEIDs, IP addresses, and usernames have no other significance other than their use as tools for the maintenance, manipulation, or protection of public information. Based on the reasoning in this decision and our review of the information at issue, we determine that these types of information, which you have marked, do not constitute public information under section 552.002 of the Government Code. Accordingly, this information is not subject to the Act and need not be released.

We note that the submitted records contain fingerprint information that is governed by chapter 560 of the Government Code, which provides that a governmental body may not release fingerprint information except in certain limited circumstances. *See* Gov't Code §§ 560.001 (defining "biometric identifier" to include fingerprints), .002 (prescribing manner in which biometric identifiers must be maintained and circumstances in which they can be released), .003 (providing that biometric identifiers in possession of governmental body are exempt from disclosure under Act). The submitted fingerprint information is confidential under section 560.003; however, the requestor has a special right of access to his client's fingerprint information. *See id.* § 560.002(1). Therefore, the university must release this information, which we have marked, pursuant to section 560.002.

Next, we note that some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part, as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). We have marked a representative sample of the information that is subject to section 552.022(a)(3). You claim that the information at issue is excepted from disclosure under section 552.108 of the Government Code. However, this section is a discretionary exception under the Act and does not constitute "other law" for purposes of section 552.022. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Accordingly, the university may not withhold the information subject to section 552.022(a)(3) under section 552.108 of the Government Code. However, you claim that portions of the information subject to section 552.022 are excepted from disclosure under sections 552.130, 552.136, and 552.137 of the Government Code. These sections

constitute "other law" for purposes of section 552.022. Therefore, we will address the applicability of sections 552.130, 552.136, and 552.137 to the information that is subject to section 552.022.

You have marked a portion of the information in Tab 20 under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130(a)(1), (2). We note section 552.130 protects personal privacy. Thus, pursuant to section 552.023 of the Government Code, the requestor has a right of access to his client's Texas motor vehicle record information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Accordingly, the Texas motor vehicle record information you have marked in Tab 20 must be released to the requestor.

Section 552.136 of the Government Code provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. The university must withhold the marked account numbers contained in the information subject to section 552.022 under section 552.136 of the Government Code.

You seek to withhold an e-mail address contained in Tab 22 in the information subject to section 552.022. Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). We note that section 552.137 protects privacy interests and that the

requestor has a right of access to his client's e-mail address. *Id.* § 552.023. Accordingly, the e-mail address you have marked in Tab 22 may not be withheld from this requestor.

We note that some of the materials subject to section 552.022 appear to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are protected by copyright. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of materials protected by copyright, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990). Thus, the remaining information subject to section 552.022 must be released to the requestor, but any copyrighted information may only be released in accordance with copyright law.

We next address your claim under section 552.108 of the Government Code for the remaining information not subject to section 552.022. Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex 1977). You state, and have provided a representation from the university police department (the "department"), that the remaining information relates to a pending criminal investigation being conducted by the department. Based on these representations, we conclude the release of the remaining information would interfere with the detection, investigation, or prosecution of crime. *See 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.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, we agree that section 552.108(a)(1) is generally applicable to this information.

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which includes a detailed description of the offense, the university may withhold the remaining information under section 552.108(a)(1).

In summary, UTEIDs, IP addresses, and usernames are not subject to the Act and need not be released. The university must release the marked fingerprint information pursuant to

section 560.002 of the Government Code. The university must withhold the marked account numbers contained in the information subject to section 552.022 under section 552.136 of the Government Code. The remaining information subject to section 552.022 must be released to the requestor, but any copyrighted information may only be released in accordance with copyright law. With the exception of basic information, which includes a detailed description of the offense, the university may withhold the remaining information under section 552.108(a)(1) 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jb

Ref: ID# 334409

Enc. Submitted documents

c: Requestor
(w/o enclosures)