



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 4, 2012

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

OR2012-06575

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# 452746 (OGC# 142292).

The University of Texas at San Antonio (the "university") received a request for all police reports from 2009 to the date of the request pertaining to specified types of crimes. You state the university will redact personal e-mail addresses of members of the public under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You also state the university will redact information under section 552.130(c) of the Government Code.<sup>2</sup> Further, you state the university will redact social security numbers

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<sup>1</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>2</sup>The Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3), such as driver's license numbers, without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Thus, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130. However, license plate numbers are subject to subsection 552.130(a)(2), not subsections 552.130(a)(1) or (a)(3); therefore, license plate numbers may not be redacted under subsection 552.130(c). As noted above, Open Records Decision No. 684 authorizes governmental bodies to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

pursuant to section 552.147(b) of the Government Code.<sup>3</sup> You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You explain the submitted reports are maintained by the university’s police department. You state the department is a law enforcement agency established pursuant to section 51.203 of the Education Code. You assert, and provide a letter from the chief of the department confirming, report numbers 2011-243A and 2012-0056A relate to ongoing criminal investigations. Based on these representations and our review of the information at issue, we conclude that the release of the information you have marked in report numbers 2011-243A and 2012-0056A 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. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976). Thus, the university may withhold the information you have marked in report numbers 2011-243A and 2012-0056A under section 552.108(a)(1).<sup>4</sup>

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. 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* Gov’t Code § 552.301(e)(1)(A). You state, and provide a letter from the chief of the department confirming, report numbers 2010-142A, 2010-846A, and 2011-0683A relate to cases that did not result in convictions or deferred adjudications. Therefore, the university may withhold the information you have marked in report numbers 2010-142A, 2010-846A, and 2011-0683A under section 552.108(a)(2).<sup>5</sup>

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<sup>3</sup>Section 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. *See id.* § 552.147(b).

<sup>4</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

<sup>5</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

You claim portions of the remaining information, which you have marked, are excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law and constitutional privacy. Section 552.101 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 common-law privacy and constitutional privacy. Common-law privacy protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). In Open Records Decision No. 393 (1983), this office concluded information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. ORD 393 at 2; *see* Open Records Decision No. 339 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). We note, however, information concerning domestic violence generally does not come within the scope of common law privacy. Open Records Decision No. 611 (1992) (“An assault by one family member on another is a crime, not a family matter normally considered private”). In this instance, the complainants in report numbers 2012-0056A and 2011-0683A are victims of alleged sexual assaults. Although portions of the remaining information use a pseudonym for the alleged sexual assault victim in report number 2012-0056A, the remaining portion of the information you seek to withhold pertaining to this report contains the actual name of the alleged sexual assault victim. Therefore, the university must withhold these complainants’ identifying information, which we have marked, under section 552.101 in conjunction with common-law privacy. However, we find none of the remaining information you seek to withhold is highly intimate or embarrassing and not of legitimate public interest. Accordingly, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

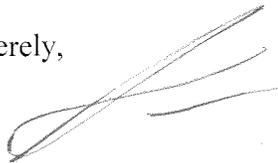
Constitutional privacy consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently and (2) an individual’s interest in avoiding disclosure of personal matters. Open Records Decision No. 455 at 4 (1987). The first type protects an individual’s autonomy within “zones of privacy,” which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual’s privacy interests and the public’s need to know information of public concern. *Id.* The scope of information protected is narrower than under the common-law doctrine of privacy; the information must concern the “most intimate aspects of human affairs.” *Id.* at 5 (citing *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)). In this instance, we find the university has failed to demonstrate any of the remaining information you seek to withhold constitutes the most intimate aspects of human affairs. Accordingly, none of the remaining information may be withheld under section 552.101 in conjunction with constitutional privacy.

In summary, the university may withhold the information you have marked in report numbers 2011-243A and 2012-0056A under section 552.108(a)(1) of the Government Code and the information you have marked in report numbers 2010-142A, 2010-846A, and 2011-0683A under section 552.108(a)(2) of the Government Code. The university must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released.

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](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, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

Ref: ID# 452746

Enc. Submitted documents

c: Requestor  
(w/o enclosures)