



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2012

Ms. Carol A. Longoria
Office of General Counsel
The University of Texas at Austin
201 West Seventh Street
Austin, Texas 78701-2902

OR2012-19321

Dear Ms. Longoria:

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# 473707 (OGC# 146686).

The University of Texas at Austin (the "university") received a request for all information pertaining to a specified incident. You state the university will withhold the driver's license numbers you marked under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You state the university will release some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, 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) without the necessity of seeking a decision from the attorney general. See Gov't Code § 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, the statutory amendments to section 552.130 of the Government Code supercede Open Records Decision No. 684. Therefore, a governmental body may redact information subject to subsections 552.130(a)(1) and (a)(3) only in accordance with section 552.130, not Open Records Decision No. 684.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007(c) of the Family Code, which reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). For purposes of section 58.007(c), “child” means a person who is ten years of age or older and under seventeen years of age at the time of the conduct. *See id.* § 51.02(2). Upon review, we find you have not demonstrated how any of the submitted information, which consists of arrest reports involving arrestees who were between the ages of seventeen and thirty-seven years old at the time of the conduct, consists of juvenile law enforcement records for purposes of section 58.007(c). Therefore, the university may not withhold any portion of the submitted information under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.

Section 552.108(a)(1) 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 claiming section 552.108(a)(1) 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).

We note the information at issue includes criminal trespass warnings. Because a copy of a criminal trespass warning is provided to the person who is the subject of the warning, we find release of the criminal trespass warnings will not interfere with the detection, investigation,

or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the criminal trespass warnings, which we have marked, may not be withheld under section 552.108.

You state the remaining information you have marked under section 552.108 pertains to an ongoing criminal case. Based on your representation, we conclude the release of the remaining information you marked 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the information at issue.

We note, and you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the university may withhold the remaining information you marked under section 552.108(a)(1) of the Government Code.

We note some of the criminal trespass warnings contain information that is subject to section 552.130 of the Government Code.² Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. We note section 552.130 does not protect the state of issuance of a driver's license. Accordingly, the university must withhold the motor vehicle record information we have marked within the criminal trespass warnings under section 552.130 of the Government Code.

In summary, with the exception of the basic information and the marked criminal trespass warnings, which must be released, the university may withhold the information you marked under section 552.108(a)(1) of the Government Code. In releasing the criminal trespass warnings, the university must withhold the motor vehicle record information we marked under section 552.130 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.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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, toll free at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 473707

Enc. Submitted documents

c: Requestor
(w/o enclosures)