



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 6, 2012

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

OR2012-19686

Dear Ms. English:

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# 473678 (OGC# 146679).

The University of Texas Health Science Center at Houston (the "university") received a request for information pertaining to an investigation involving the requestor and the identity of the individual who lodged a complaint against the requestor. You state the university will redact driver's license numbers under section 552.130(c) of the Government Code.¹ You claim portions of the submitted information are excepted from disclosure under sections 552.108 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹Section 552.130(c) of the Government Code allows 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).

²We assume the "representative sample" of information 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 those submitted to this office.

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: (1) 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.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You have provided documentation from the university’s police department stating offense report number 2012-0330-003 relates to an active and pending criminal investigation. Based on this representation and our review, we conclude release of the information you have marked in offense report number 2012-0330-003 would interfere with the detection, investigation, or prosecution of crime, and we agree section 552.108(a)(1) is applicable to this information. *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.*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the university may withhold the information you have marked in offense report number 2012-0330-003 under section 552.108(a)(1) of the Government Code.³

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). You state offense report number 2010-0226-0139 relates to a concluded investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) is applicable to offense report number 2010-0226-0139. Accordingly, the university may withhold the information you have marked in offense report number 2010-0226-0139 under section 552.108(a)(2) of the Government Code.⁴ We note, however, although you also raise section 552.108(a)(2) for offense report number 2011-0214-0069, you state this report relates to a case that was disposed and dismissed after completion of deferred adjudication. Thus, we find report number 2011-0214-0069 may not be withheld under section 552.108(a)(2) of the Government Code.

You state the university will redact the information you have marked in the remaining information under section 552.117 of the Government Code, as permitted by section 552.024(c) of the Government Code. Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of a current or former official or employee of a governmental body who requests that this information be kept confidential under

³As our ruling for this information is dispositive, we do not address your remaining argument against its release.

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section 552.024 of the Government Code. *See id.* §§ 552.117, .024. We note, however, section 552.117 applies only to records that a governmental body is holding in an employment capacity. The information at issue consists of law enforcement records and is not held by the university in an employment capacity. Therefore, we find section 552.117 of the Government Code does not apply in this situation, and the university may not withhold any portion of the remaining information you have marked on that basis.

In summary, the university may withhold the information you have marked in offense report number 2012-0330-003 under section 552.108(a)(1) of the Government Code. The university may withhold the information you have marked in offense report number 2010-0226-0139 under section 552.108(a)(2) of the Government Code. 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, 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# 473678

Enc. Submitted documents

c: Requestor
(w/o enclosures)