



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 8, 2013

Ms. Jennifer E. Bloom
Senior Assistant General Counsel
University of Houston System
311 E Cullen Building
Houston, Texas 77204-2028

OR2013-17446

Dear Ms. Bloom:

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# 501542.

The University of Houston Police Department (the "department") received a request for a specified police report and audiotape involving the requestor. You state you have released the requested police report, with redactions, to the requestor. You claim the submitted audiotape is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you state the department released a redacted copy of the requested report to the requestor. We note you have redacted motor vehicle record information and e-mail addresses, including the requestor's own motor vehicle record information and e-mail address. Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov't Code § 552.130(c)). Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1)-(2). We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his redacted motor vehicle record information under section 552.023 of the Government Code and it may not be withheld under section 552.130 of the Government Code. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987)

(privacy theories not implicated when individuals request information concerning themselves). Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold certain 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. ORD 684. Section 552.137 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). Gov’t Code § 552.137(a)-(c). However, the requestor has a right of access to his own e-mail address pursuant to section 552.137(b) of the Government Code. *See id.* § 552.137(b). Therefore, the department may not withhold the requestor’s e-mail address from him under section 552.137 of the Government Code.

We further note you have redacted additional information from the requested report. You do not assert, nor does our review of our records indicate, that the department has been authorized to withhold this information without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2001). Furthermore, as of the date of this letter, you have not submitted to this office written comments stating the reasons why the additional information you have redacted must be withheld. Consequently, we find the department has failed to comply with the procedural requirements mandated by section 552.301(e) with regards to this information. Therefore, pursuant to section 552.302 of the Government Code, the department must release the additional redacted information. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code. In the future, the department must not redact requested information that it submits to this office in seeking an open records ruling, unless the information is the subject of a previous determination under section 552.301. *See Gov’t Code* §§ 552.301(e)(1)(D), .302; ORD 673.

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). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted audio recording pertains to a closed criminal investigation by the department that, after completion of the investigation and subsequent prosecution, concluded in a final result other than conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the submitted audio recording. Thus, the department may withhold the submitted audio recording under section 552.108(a)(2) of the Government Code.¹

¹As our ruling is dispositive for the audio recording, we need not address the department’s remaining argument against its disclosure.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.² *See id.* § 552.130. Accordingly, the department must withhold the motor vehicle record information we have marked in the submitted police report under section 552.130 of the Government Code.

In summary, the department may withhold the submitted audio recording under section 552.108(a)(2) of the Government Code. The department must withhold the motor vehicle record information we have marked in the submitted police report under section 552.130 of the Government Code. The remaining information must be released.³

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/akg

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).

³The information being released includes the requestor's motor vehicle record information and personal e-mail address. As noted above, the requestor has a right of access to this information. Should the department receive another request for this information from an individual without such access, the department may withhold the requestor's motor vehicle record information under section 552.130(c) and his e-mail address pursuant to ORD 684, without seeking a decision from this office. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov't Code § 552.130(c)); ORD 684 at 14. If a governmental body redacts the motor vehicle record information, it must notify the requestor in accordance with section 552.130(e). *See* Gov't Code § 552.130(d), (e).

Ref: ID# 501542

Enc. Submitted documents

c: Requestor
(w/o enclosures)