



January 30, 2015

Fernando C. Gomez, J.D., Ph.D.
Vice Chancellor and General Counsel
The Texas State University System
208 East 10th Street, Suite 600
Austin, Texas 78701-2407

OR2015-01947

Dear Dr. Gomez:

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# 553322.

Texas State University (the "university") received a request for information pertaining to a specified incident involving the requestor. You state you have released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.108, 552.130, 552.136, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

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). You state, and provide an affidavit demonstrating, the information you marked pertains to an open criminal investigation by the university's police department. We note you seek to withhold

¹Although you do not raise sections 552.130, 552.136, and 552.147 of the Government Code in your brief, we understand you to claim these exceptions based on your markings in the submitted information.

a criminal trespass warning notice under section 552.108(a)(1). A copy of this notice was provided to the individual being warned. You have not explained how releasing this information, which has already been seen by the individual being warned, would interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Accordingly, the criminal trespass warning notice may not be withheld under section 552.108(a)(1). However, based on your representation, we conclude the release of the remaining information at issue 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 remaining information at issue.

However, 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). We note basic information includes, among other items, a detailed description of the offense. *See* ORD 127 at 3-4. In this instance, you have marked the entire narrative portion of the submitted incident report as information you seek to withhold under section 552.108. The remaining information at issue does not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See id.* Accordingly, we determine the university must release a sufficient portion of the narrative to encompass a detailed description of the offense. Thus, with the exception of the basic information and the criminal trespass warning notice, the university may withhold the information you marked under section 552.108(a)(1) of the Government Code.²

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. *See* Gov't Code § 552.130. We note the requestor has a right of access to her own motor vehicle record information, which we have marked for release, pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds 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). Therefore, the university may not withhold the requestor's motor vehicle record information from her under section 552.130 of the Government Code. However, we find the remaining information you marked consists of motor vehicle record information subject to section 552.130. We have marked additional

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

motor vehicle record information subject to section 552.130. Thus, with the exception of the information we marked for release, the university must withhold the motor vehicle record information you marked and the additional information we marked under section 552.130 of the Government Code.

You assert the student identification numbers you have marked in the remaining information are confidential under section 552.136 of the Government Code. Section 552.136 provides, “[n]otwithstanding any other provision of [the Act], 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(b); *see id.* § 552.136(a) (defining “access device”). Upon review, we find you have not demonstrated how any of the information at issue consists of access device numbers for purposes of section 552.136. Accordingly, the university may not withhold any of the information you have marked under section 552.136 of the Government Code.

Section 552.147 of the Government Code provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). We note the requestor has a right of access to her own social security number, which we have marked for release, pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b); ORD 481 at 4. Therefore, the university may not withhold the requestor’s social security number from her under section 552.147 of the Government Code. However, we find the remaining information you marked consists of a social security number of another living individual. Thus, the university may withhold this information under section 552.147 of the Government Code.

In summary, with the exception of the criminal trespass warning notice and basic information, the university may withhold the information you marked under section 552.108(a)(1) of the Government Code. With the exception of the information we marked for release, the university must withhold the information you marked and the additional information we marked under section 552.130 of the Government Code. With the exception of the information we marked for release, the university may withhold the information you marked under section 552.147 of the Government Code. The university must release the remaining information.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.

³We note the requestor has a special right of access to some of the information being released in this instance. *See* Gov’t Code § 552.023(a) (governmental body may not deny access to person to whom information relates, or that party’s representative, solely on grounds that information is considered confidential by privacy principles).

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,

A handwritten signature in black ink, appearing to read "Paige Thompson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 553322

Enc. Submitted documents

c: Requestor
(w/o enclosures)