



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 17, 2015

Ms. Cynthia Tynan  
Attorney & Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2015-07511

Dear Ms. Tynan:

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# 560525 (OGC# 159965).

The University of Texas System (the "system") received a request for all information related to the termination of the requestor's client. You state you have released some information to the requestor. You state the system will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code and a social security number pursuant to section 552.147(b) of the Government Code.<sup>1</sup> You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) 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). 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).

Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 51.971 of the Education Code, which provides, in pertinent part:

(a) In this section:

(1) "Compliance program" means a process to assess and ensure compliance by the officers and employees of an institution of higher education with applicable laws, rules, regulations, and policies, including matters of:

(A) ethics and standards of conduct;

(B) financial reporting;

(C) internal accounting controls; or

(D) auditing.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

...

(c) The following are confidential:

(1) information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program[.]

...

(d) Subsection (c) does not apply to information related to an individual who consents to disclosure of the information.

Educ. Code § 51.971(a), (c)(1), (d). You state the University of Texas at San Antonio (the "university"), which is a component institution of the system, is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). You assert the submitted information pertains to closed investigations into allegations of misconduct by a university employee. You state the compliance investigations were undertaken by individuals within the university's police department to assess and ultimately

ensure that the university has complied with all applicable law, rules, regulations, and policies. Based on your representations and our review, we find the information at issue relates to investigations conducted under the university's compliance program. *See id.* § 51.971(a)(1).

You seek to withhold portions of the submitted information under section 51.971(c) of the Education Code. You inform us some of the relevant individuals have consented to the disclosure of their identifying information. You seek to withhold the identifying information of the remaining relevant individual who has not consented to the disclosure of his information in the investigation at issue. You assert release of this information would identify an individual making a report to, seeking guidance from, or participating in the compliance investigation. Upon review, we agree release of the information at issue would identify an individual who participated in the investigation at issue. *See id.* § 51.971(c)(1). Accordingly, the system must withhold the information you have marked, and the additional information we have marked, under section 552.101 of the Government Code in conjunction with section 51.971 of the Education Code.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we agree the date of birth you have marked must be withheld under section 552.102(a) of the Government Code.

Section 552.108(b)(1) of the Government Code excepts from required public disclosure an internal record of a law enforcement agency maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere with law enforcement or prosecution[.]" Gov't Code § 552.108(b)(1). A governmental body that seeks to withhold information under section 552.108(b)(1) must sufficiently explain how and why the release of the information would interfere with law enforcement and crime prevention. *See id.* § 552.301(e)(1)(A); *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws); Open Records Decision Nos. 562 at 10 (1990), 531 at 2 (1989). This office has concluded that section 552.108(b) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 508 (1988) (release of dates of prison transfer could impair security), 413 (1984) (release of sketch showing security measures to be used during execution would unduly interfere with law enforcement). In Open Records Decision No. 506 (1988), this office determined that the statutory predecessor to section 552.108(b)

excepted from disclosure “cellular mobile phone numbers assigned to county officials and employees with specific law enforcement responsibilities.” ORD 506 at 2. We noted that the purpose of the cellular telephones was to ensure immediate access to individuals with specific law enforcement responsibilities and that public access to these numbers could interfere with that purpose. *Id.*

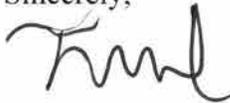
You inform us the information you have marked consists of the cellular telephone number of a system police officer. You state public disclosure of this information would interfere with this officer’s abilities to perform law enforcement responsibilities and would jeopardize the public and interfere with the system’s police officer’s abilities to prevent and investigate crime. Based on your representations and our review, we find the system may withhold the cellular telephone number you have marked under section 552.108(b)(1) of the Government Code.

In summary, the system must withhold the information you have marked, and the additional information we have marked, under section 552.101 of the Government Code in conjunction with section 51.971 of the Education Code. The system must withhold the date of birth you have marked under section 552.102(a) of the Government Code. The system may withhold the cellular telephone number you have marked under section 552.108(b)(1) of the Government Code. The system must release the remaining information.

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](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 "Tim Neal", written in a cursive style.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 560525

Enc. Submitted documents

c: Requestor  
(w/o enclosures)