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ATTORNEY GENERAL OF TEXAS

April 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

OR2015-08368

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# 561913 (File No. 15013.20).

Texas State University (the "university") received a request for information pertaining to specified arrests of a named individual. You state you do not have information responsive to a portion of the requested information.¹ You also 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, and 552.147 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state the requestor agreed the university may redact local identification numbers contained in the requested information. Thus, these portions of the requested information are not responsive to the present request. This ruling does not address the public availability

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²Although you do not raise sections 552.130 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.

of any information that is not responsive to the request, and the university is not required to release any such information in response to the request.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the submitted information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

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 *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). We note basic information includes, among other items, a detailed description of the offense, but does not include information related to a witness or motor vehicle record information protected by section 552.130 of the Government Code. *See Open Records Decision No. 127* (1976). Thus, with the exception of the basic information, the university may withhold the information you marked under section 552.108(a)(2) of the Government Code.³

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. Upon review, we find the remaining information you marked consists of motor vehicle record information subject to section 552.130. Thus, the university must withhold the motor vehicle record information you marked under section 552.130 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). The university may withhold social security numbers you have marked under section 552.147 of the Government Code.

In summary, with the exception of the basic information, the university may withhold the information you marked under section 552.108(a)(2) of the Government Code. The university must withhold the motor vehicle record information you marked under section 552.130 of the Government Code. The university may withhold social security

³As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

numbers you have marked under section 552.147 of the Government Code. The remaining responsive 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.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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 561913

Enc. Submitted documents

c: Requestor
(w/o enclosures)