



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 9, 2016

Ms. Cynthia Tynan
Attorney & Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street, Suite 600
Austin, Texas 78701

OR2016-17844

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# 621797 (OGC#'s 169876 and 169962).

The University of Texas at Austin (the "university") received two separate requests from different requestors for documents pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *See* Gov't Code § 552.101. This section encompasses section 51.971 of the Education Code, which provides, in relevant part, the following:

(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.

...

(e) Information is excepted from disclosure under [the Act] if it is collected or produced:

(1) in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation[.]

Educ. Code § 51.971(a), (e)(1). The submitted information consists of law enforcement records the university asserts are confidential under section 51.971 because they are part of a compliance program investigation. However, we note these law enforcement records are maintained separate and apart from the compliance program investigation at issue. The university may not engraft the confidentiality of section 51.971 to records that exist independently of a compliance investigation. Thus, the law enforcement records at issue are not confidential under section 51.971 of the Education Code, and the university may not withhold them under section 552.101 of the Government Code on that ground.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175(b). We note section 552.1175 also encompasses a personal cellular telephone number, provided a governmental body does not pay for the cellular phone service. *See* Open Records Decision No. 506 at 5-7 (1988). Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" Gov't Code § 552.1175(a)(1). Therefore, if the peace officers whose information is at issue elect to restrict access to their information in accordance with section 552.1175(b), the university must withhold the information we marked under section 552.1175 of the Government Code. However, the university may only withhold the personal cellular telephone numbers we marked under section 552.1175 if a governmental body did not pay for the cellular telephone service.

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 id.* § 552.130. Accordingly, the university must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, if the peace officers whose information is at issue elect to restrict access to their information in accordance with section 552.1175(b), the university must withhold the information we marked under section 552.1175 of the Government Code; however, the university may only withhold the personal cellular telephone numbers we marked if a governmental body did not pay for the cellular telephone service. The university must withhold the information we marked under section 552.130 of the Government Code. The university 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, 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 621797

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)