



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 22, 2016

Ms. Jennifer Burnett
Attorney & Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West 7th Street, Suite 600
Austin, Texas 78701-2901

OR2016-25974

Dear Ms. Burnett:

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# 635340 (OGC# 171719).

The University of Texas System (the "system") received a request for twelve categories of information about a named system employee. You state some of the requested information does not exist.¹ You also state you have released some information to the requestor. You claim some of the submitted information is not subject to the Act. Additionally, you claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note the requestor excludes patient medical records, social security numbers, personal banking information, personal phone numbers and addresses, dates of birth, personal e-mail addresses, and information about relatives from the scope of the request. Although you inform us the system will withhold information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code and personal e-mail addresses under section 552.137 of the Government Code pursuant to Open

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).

Records Decision No. 684 (2009), we note these types of information are not responsive to the request for information.² This ruling does not address the public availability of any information that is not responsive to the request, and the system is not required to release such information in response to this request.

Section 552.002(a) of the Government Code defines “public information” as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

Gov’t Code § 552.002(a). In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. We understand an officer’s TCOLE identification number is a unique computer-generated number assigned to peace officers for identification in the commissioner’s electronic database and may be used as an access device number on the TCOLE website. Accordingly, we find the officer’s TCOLE identification number in the submitted information does not constitute public information under section 552.002 of the Government Code. Therefore, the TCOLE identification number is not subject to the Act and need not be released to the requestor.

²Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body. *See* Gov’t Code § 552.117(a)(1). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c)(2). Open Records Decision No. 684 is a previous determination authorizing all governmental bodies to withhold certain categories of information, including e-mail addresses of members of the public subject to section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses information protected by other statutes, such as section 1703.306 of the Occupations Code, which provides:

(a) A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

- (1) the examinee or any other person specifically designated in writing by the examinee;
- (2) the person that requested the examination;
- (3) a member, or the member’s agent, of a governmental agency that licenses a polygraph examiner or supervises or controls a polygraph examiner’s activities;
- (4) another polygraph examiner in private consultation; or
- (5) any other person required by due process of law.

(b) The [Texas Department of Licensing and Regulation] or any other governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information.

Occ. Code § 1703.306(a), (b). The submitted information contains information acquired from a polygraph examination. The requestor does not fall within any of the categories of individuals who have a right of access to the submitted polygraph information under section 1703.306(a). Accordingly, the system must withhold the submitted polygraph information, which you marked, under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code.

You state you will redact information under section 552.130 of the Government Code.³ Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by this state or another state or country. Gov’t Code § 552.130(a)(1), (2). Accordingly, the system must withhold the motor vehicle record information you marked and the additional information we marked under section 552.130 of the Government Code.

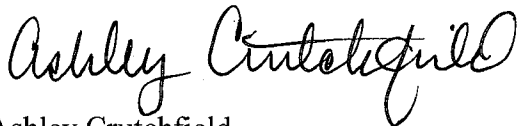
³We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

In summary, the TCOLE identification number is not subject to the Act and need not be released. The system must withhold the submitted polygraph information, which you marked, under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. The system must withhold the motor vehicle record information you marked and the additional information we marked under section 552.130 of the Government Code. The system must release the remaining responsive 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/bw

Ref: ID# 635340

Enc. Submitted documents

c: Requestor
(w/o enclosures)