



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 27, 2017

Ms. Cynthia Tynan  
Senior Attorney & Public Information Coordinator  
The University of Texas System  
201 West 7th Street, Suite 600  
Austin, Texas 78701-2901

OR2017-01936

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# 643277 (OGC# 172503).

The University of Texas of the Permian Basin (the "university") received a request for records pertaining to the arrest of a named individual. The university states it has released some information to the requestor. The university states it will redact motor vehicle record information under section 552.130(c) of the Government Code.<sup>1</sup> You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the university seeks to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. In Open Records Letter No. 2016-01245 (2016), this office issued a previous determination authorizing the university to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without

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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 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).

requesting a decision from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001). Thus, the university must withhold all dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy in accordance with the previous determination issued to the university in Open Records Letter No. 2016-01245.<sup>2</sup>

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must 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 the information you marked relates to an ongoing criminal investigation, and release of that information would interfere with the investigation and prosecution of the case. Based upon this representation, we conclude the release of the 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 information at issue. Accordingly, the university may withhold the information it marked under section 552.108(a)(1) of the Government Code.

In summary, the university must withhold all dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy in accordance with the previous determination issued to the university in Open Records Letter No. 2016-01245. The university may withhold the information it marked under section 552.108(a)(1) of the Government Code. The remaining information must be released.

Finally, you ask this office to issue a previous determination permitting the university to withhold the dates of birth of current and former employees of the university when the dates of birth are held in an employment context under section 552.102 of the Government Code. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); ORD 673. We decline to issue such a previous determination at this time. Accordingly, 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.

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<sup>2</sup>As our ruling is dispositive, we need not address the university's remaining argument against disclosure for the information at issue.

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,



Kaelan A. Henze  
Assistant Attorney General  
Open Records Division

KAH/eb

Ref: ID# 643277

Enc. Submitted documents

c: Requestor  
(w/o enclosures)