



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 6, 2020

Ms. Emily Howell  
Assistant General Counsel  
The Texas A&M University System  
301 Tarrow Street, 6th Floor  
College Station, Texas 77840-7896

OR2020-00316

Dear Ms. Howell:

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# 804408 (ORR# C002190).

Texas A&M University-Corpus Christi (the "university") received a request for information related to specified incidents. The university states it will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2018-31462 (2018).<sup>1</sup> We understand the university will withhold e-mail addresses of members of the public under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>2</sup> The university states it is releasing some of the requested information. The university claims some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of

---

<sup>1</sup> Open Records Letter No. 2018-31462 authorized the university to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

<sup>2</sup> Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

the Government Code.<sup>3</sup> We have considered the exceptions the university claims and reviewed the submitted representative sample of information.<sup>4</sup>

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). 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). The university states the information submitted as Exhibit B-2 pertains to an active criminal investigation or prosecution. Based on this representation, we conclude the release of the information the university marked 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, the university may withhold the information it marked in Exhibit B-2 under section 552.108(a)(1) of the Government Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The university states the information submitted as Exhibit B-3 pertains to a closed case that did not result in conviction or deferred adjudication. Based on this representation, we agree the university may withhold the information it marked in Exhibit B-3 under section 552.108(a)(2) of the Government Code.

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally,

---

<sup>3</sup> Although the university does not raise section 552.130 of the Government Code in its brief, we understand the university to raise this exception based on its markings.

<sup>4</sup> We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find some of the information submitted as Exhibit B-1, which we marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the university must withhold the information we marked in Exhibit B-1 under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the university has not demonstrated any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the university may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

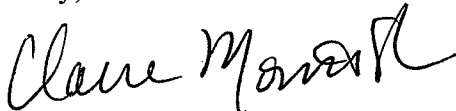
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the university must withhold the motor vehicle record information it marked under section 552.130 of the Government Code.

In summary, the university may withhold the information it marked in Exhibit B-2 under section 552.108(a)(1) of the Government Code. The university may withhold the information it marked in Exhibit B-3 under section 552.108(a)(2) of the Government Code. The university must withhold the information we marked in Exhibit B-1 under section 552.101 of the Government Code in conjunction with common-law privacy. The university must withhold the motor vehicle record information it 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/jxd

Ms. Emily Howell - Page 4

Ref: ID# 804408

Enc. Submitted documents

c: Requestor  
(w/o enclosures)