



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 11, 2020

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

OR2020-04039

Dear Ms. Masek:

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# 811197 (ORR# C002518).

Texas A&M University (the "university") received a request for ten specified incident reports. 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. 2016-26464 (2016).¹ The university claims some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the university claims and reviewed the submitted information.

Initially, we note the university has not submitted information related to incident number 19-0909-0005, 19-CR-0930-02, or 19-090924-0005. To the extent any information related to these incident numbers existed on the date the university received the request, we assume the university has released it. If the university has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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

¹ Open Records Letter No. 2016-26464 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).

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 this exception is applicable to the information at issue. *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 incident numbers 19-0608-0001, 19-0807-0004, 19-0901-0006, and 19-0908-0005 relate to pending criminal investigations by the university’s police department. We note incident numbers 19-0608-0001, 19-0807-0004, and 19-0908-0005 include citations. Because copies of the citations were provided to the individuals who were cited, we find release of the citations will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). We therefore conclude the citations may not be withheld under section 552.108(a)(1). However, we conclude release of the remaining information the university marked will 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). Accordingly, we find the university may withhold the remaining information it marked in incident numbers 19-0608-0001, 19-0807-0004, 19-0901-0006, and 19-0908-0005 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 incident numbers 19-0620-0005, 19-0821-0003, and 19-0912-0013 relate to closed criminal investigations by the university’s police department that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree the university may withhold the information it marked in incident numbers 19-0620-0005, 19-0821-0003, and 19-0912-0013 under section 552.108(a)(2) of the Government Code.

We note portions of the citations at issue are subject to section 552.130 of the Government Code.² Section 552.130 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 contained in the citations in incident numbers 19-0608-0001, 19-0807-0004, and 19-0908-0005 under section 552.130 of the Government Code.

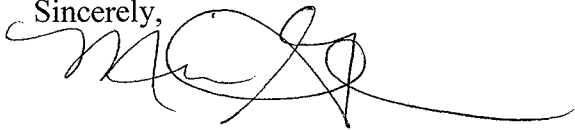
² The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, with the exception of information contained in the citations related to incident numbers 19-0608-0001, 19-0807-0004, and 19-0908-0005, the university may withhold the information it marked in incident numbers 19-0608-0001, 19-0807-0004, 19-0901-0006, and 19-0908-0005 under section 552.108(a)(1) of the Government Code. The university may withhold the information it marked in incident numbers 19-0620-0005, 19-0821-0003, and 19-0912-0013 under section 552.108(a)(2) of the Government Code. The university must withhold the motor vehicle record information contained in the citations related to incident numbers 19-0608-0001, 19-0807-0004, and 19-0908-0005 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,



Michelle Garza
Assistant Attorney General
Open Records Division

MRG/jxd

Ref: ID# 811197

Enc. Submitted documents

c: Requestor
(w/o enclosures)