



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 10, 2020

Ms. Rachel E. Rolf
General Counsel
Trinity University
One Trinity Place
San Antonio, Texas 78212-7200

OR2020-15718

Dear Ms. Rolf:

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# 833050 (ORR# BS-04092020).

The Trinity University Police Department (the "department") received a request for information related to a specified accident involving a named individual. The department states it does not maintain information responsive to a portion of the request.¹ The department states it will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2019-12846 (2019).² The department also states it is withholding motor vehicle record information pursuant to section 552.130(c) of the Government Code.³ The department claims some of the submitted information is excepted from disclosure under section 552.137 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

¹ The 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).

² Open Records Letter No. 2019-12846 authorized the department 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).

³ 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).

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Therefore, the department must withhold the personal e-mail address it marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. The department must release the remaining information.

The department also asks this office to issue a previous determination that would permit it to withhold e-mail addresses under section 552.137 of the Government Code without requesting a ruling from this office. ORD 673. We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold certain information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684 at 14; *see also* Educ. Code § 51.212(f) (campus police department of private institution of higher education is governmental body for purposes of [the Act], with respect to certain 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/rm

Ref: ID# 833050

c: Requestor