



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 20, 2009

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
600 North Bell Boulevard
Cedar Park, Texas 78613

OR2009-10025

Dear Ms. Quinn:

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# 354145.

The City of Cedar Park (the "city") received a request for two specified police reports. You state that the city will release some of the requested information to the requestor. You claim that portions of the remaining information are excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 provides in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution; [or]

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2), (b)(1)-(2). A governmental body claiming section 552.108(a)(1) or section 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that Exhibit E, incident number 0906-0067, relates to a pending criminal investigation. Based on your representations and our review, we conclude that release of Exhibit E would interfere with the detection, investigation, or prosecution of crime. Thus, section 552.108(a)(1) is applicable to the information you have marked Exhibit E. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, the city may withhold Exhibit E under section 552.108(a)(1) of the Government Code.

Sections 552.108(a)(2) and 552.108(b)(2) protect information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. Gov't Code § 552.108(a)(2), (b)(2). A governmental body claiming section 552.108(a)(2) or section 552.108(b)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *Id.* You state and provide documentation that Exhibit C, incident number 0905-0187, pertains to a criminal investigation by the city's police department that has been concluded with no charges being brought. Thus, you contend this investigation did not result in conviction or deferred adjudication. Based on your representations and our review, we find that section 552.108(a)(2) is applicable to

Exhibits C. Accordingly, the city may withhold Exhibit C under section 552.108(a)(2) of the Government Code.

You contend that some of the information you have marked in Exhibit B is subject to section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1). We note that section 552.130 of the Government Code protects personal privacy. Thus, the requestor has a right of access to her own driver's license information under section 552.023, and it may not be withheld under section 552.130. *See generally id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). The city must withhold the Texas driver's license numbers you have marked in Exhibit B under section 552.130 of the Government Code.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act.¹ *Id.* § 552.147. The city may withhold the social security numbers you have marked in Exhibit B.

In summary, the city may withhold Exhibit E under section 552.108(a)(1) of the Government Code. The city may withhold Exhibit C under section 552.108(a)(2) of the Government Code. The city must withhold the driver's license numbers you have marked in Exhibit B under section 552.130 of the Government Code. The city may withhold the social security numbers you have marked in Exhibit B under section 552.147 of the Government Code. The remaining information must be released to the requestor.²

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.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free,

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147.

²Because some of the information being released is confidential with regard to the general public, if the city receives another request for this information from an individual other than this requestor, the city should again seek our decision.

at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 354145

Enc. Submitted documents

cc: Requestor
(w/o enclosures)