



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2009

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

OR2009-18416

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# 370895.

The Cedar Park Police Department (the "department") received two requests for a specified incident report. You state you will provide some of the requested information to the requestors. You also state you will redact social security numbers pursuant to section 552.147 of the Government Code.¹ You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You raise section 552.108(a)(1) of the Government Code for Exhibit C. Section 552.108(a)(1) 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A);

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.

Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). You state the information in Exhibit C relates to a pending criminal investigation. Based on these representations and our review, we determine the release of this information 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), 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). Thus, section 552.108(a)(1) is generally applicable to Exhibit C.

We note, and you acknowledge, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle* and includes “a detailed description of the offense.” See 531 S.W.2d at 186-7. Accordingly, with the exception of basic information, which you state will be made available to the requestors, the department may withhold Exhibit C under section 552.108 of the Government Code.

You assert some of the information in Exhibit B is excepted from disclosure under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Upon review, the information you have marked must generally be withheld under section 552.130. We note, however, that the second requestor may be the insurance provider of the owner of the vehicle listed in the submitted information. As such, this requestor, if acting as the vehicle owner's authorized representative, has a right of access to the marked Texas motor vehicle record information. See *id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). In this instance, it is not clear that the requesting insurance company is acting as the vehicle owner's authorized representative. Therefore, we rule conditionally. To the extent the second requestor has a right of access under section 552.023 to the marked Texas motor vehicle record information, the department must release the marked information to this requestor.² To the extent this requestor does not have a right of access under section 552.023, the department must withhold the marked information from the second requestor under section 552.130 of the Government Code. In either case, the department must withhold the marked information from the first requestor under section 552.130.³

²In that case, should the department receive another request for this particular information from a different requestor, then the department should again seek a decision from this office. See Gov't Code §§ 552.301(a), .302.

³We note that this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, with the exception of basic information, the department may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The department must withhold the marked information in Exhibit B from the first requestor under section 552.130 of the Government Code. To the extent the second requestor does not have a right of access under section 552.023, the department also must withhold the marked information in Exhibit B from the second requestor under section 552.130 of the Government Code. The remaining information must be released.

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, 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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 370895

Enc. Submitted documents

c: Requestor
(w/o enclosures)