



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 19, 2010

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

OR2010-00849

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# 372323 (Reference No. 10-128).

The Cedar Park Police Department (the "department") received a request for report number 0911-0161. You state some of the requested information will be released. You claim that other responsive information is 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 information you submitted.

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); *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, that 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 includes a detailed description of the offense, 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 or driver's license issued by a Texas agency is excepted from public release.¹ Gov't Code § 552.130(a)(1). Upon review, we agree the information you have marked must generally be withheld under section 552.130. We note, however, that the requestor may be the authorized representative of the victim listed in the submitted information. As such, this requestor, if acting as the victim's authorized representative, has a right of access to the victim's Texas driver's license number. *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). To the extent the requestor has a right of access under section 552.023 to the victim's marked Texas driver's license number, the department must release the victim's information to this requestor. To the extent this requestor does not have a right of access under section 552.023 to the victim's information, the department must withhold the victim's Texas driver's license number under section 552.130 of the Government Code.

Finally, you claim section 552.147 of the Government Code for the social security numbers you have marked in Exhibit B. Section 552.147 provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act.² Gov't Code § 552.147(a). If the requestor is acting as the victim's authorized representative, then the requestor also has a right of access to the victim's social security number. *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). Thus, if the requestor is acting as the victim's authorized representative, the victim's social security number must be released to this requestor. If the requestor is not acting as the victim's authorized representative, the department may withhold the victim's social security number under section 552.147. In either instance, the department may withhold the social security number belonging to the witness in Exhibit B under section 552.147.

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

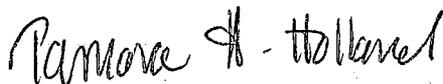
²We note that section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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 victim's Texas driver's license number in Exhibit B under section 552.130 of the Government Code and may withhold the victim's social security number in Exhibit B under section 552.147 of the Government Code, unless the requestor is acting as the victim's authorized representative. If so, the department must release the victim's Texas driver's license number and social security number, which you have marked in Exhibit B, pursuant to section 552.023 of the Government Code. In either instance, the department may withhold the social security number belonging to the witness in Exhibit B under section 552.147 of the Government Code. The remaining information must be released to the requestor.

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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 372323

Enc. Submitted documents

c: Requestor
(w/o enclosures)