



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2010

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

OR2010-04056

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# 374561 (City Reference Nos. 10-180 & 10-186).

The City of Cedar Park (the "city") received two requests from different requestors for a specified police report. You state the city will make some of the requested information available to the requestors. You state you have redacted social security numbers from the submitted information 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 state you have redacted the Texas driver's license numbers you have marked in Exhibit B pursuant to Open Records Decision No. 684 (2009) and section 552.130 of the Government Code. Section 552.130 excepts from disclosure "information [that] relates to ... a motor vehicle operator's or driver's license or permit issued by an agency of this state [.]" Gov't Code § 552.130. This office recently issued Open Records Decision No. 684, 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

¹Section 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.

of the Government Code, without the necessity of requesting an attorney general decision. However, we note that section 552.130 protects the privacy interest of the individual, and because the right of privacy is purely personal, it lapses upon death. *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref'd n.r.e.); *see also* Attorney General Opinions JM-229 (1984), H-917 (1976); Open Records Decision No. 272 (1981). Accordingly, the city may not withhold the Texas driver's license number of the deceased individual you have marked in Exhibit B under section 552.130 and pursuant to Open Records Decision No. 684. *See* ORD 684 at 13. Additionally, the city has marked the Texas driver's license number of one of the requestors. That requestor has a right of access to his own driver's license number under section 552.023 and it may not be withheld from him under section 552.130 and pursuant to Open Records Decision No. 684. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); Open Records Decision Nos. 684 at 12, 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, the city must otherwise withhold the Texas driver's license numbers you have marked under section 552.130 of the Government Code.

Next, you claim Exhibit C is excepted in its entirety under section 552.108 of the Government Code. 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state and provide a memorandum from the city's police department that the information in Exhibit C relates to a pending criminal prosecution. Based on your representation and our review of the memorandum, we conclude that the release of Exhibit C 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.

As you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes among other things, a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note that Exhibit C contains the entire narrative portion of the requested report, as well as other information that is considered basic information. You seek to withhold Exhibit C in its entirety under section 552.108. However, Exhibit B, which consists of the remaining portions of the report, does not contain information sufficient to

satisfy the requirement that basic information be released. *See* ORD 127. Accordingly, we determine that the city must release a sufficient portion of Exhibit C to satisfy the required release of basic information pursuant to *Houston Chronicle*. The city may withhold the remaining information in Exhibit C under section 552.108(a)(1) of the Government Code.²

In summary, with the exception of the deceased individual's Texas driver's license number, the city must withhold the information you have marked in Exhibit B under section 552.130 of the Government Code. However, one of the requestors has a right of access under section 552.023 of the Government Code to his own Texas driver's license number, and it must be released to him. With the exception of basic information, which must be released, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code.

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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 374561

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

²As our ruling is dispositive for Exhibit C, we need not address your assertions under section 552.130 for portions of that information.