



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 16, 2010

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

OR2010-05411

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# 376170 (Cedar Park Reference No. 10-225).

The City of Cedar Park (the "city") received a request for a specified police report and any records pertaining to that report. You state the city has released some of the requested information to the requestor. You state you have redacted Texas driver's license numbers under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> In addition, you have redacted social security numbers pursuant to section 552.147 of the Government Code.<sup>2</sup> You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information includes the blood alcohol test results of an individual's blood alcohol content. Full information concerning the analysis of the specimens must be made available upon the request of the person who has given specimens at the request of a peace officer. Transp. Code § 724.018. We note that the requestor is the

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<sup>1</sup>We 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.

<sup>2</sup>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 § 552.174(b).

individual whose blood alcohol content is at issue. Because the requestor is the individual at issue, the city must release the blood alcohol test results, which we have marked, to this requestor pursuant to section 724.018 of the Transportation Code.

Next, you claim the remainder of Exhibit C is excepted 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, 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 the submitted information pertains to a pending criminal prosecution by the Williamson County Attorney’s Office. Based on this representation and our review, we conclude that section 552.108(a)(1) is applicable to the remainder of Exhibit C. *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 the city may withhold the remainder of Exhibit C under section 552.108(a)(1) of the Government Code.

Next, you claim that portions of the remaining information are excepted under section 552.101 of the Government Code. Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. The informer’s privilege, incorporated into the Act by section 552.101, has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer’s identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer’s privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to “administrative officials having a duty of inspection or of law enforcement within their particular spheres.” Open Records Decision No. 279 at 2 (1981) (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988).

The remaining information contains the identity of a complainant who reported violations of the law to the city’s police department. Having considered your representations and reviewed the information at issue, we agree some of the information you seek to withhold may be withheld pursuant to section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, some of the information you have marked does not identify an individual who reported alleged violations to the division. Such

information is not protected under section 552.101 in conjunction with the common-law informer's privilege and may not be withheld on that basis. Therefore, the city may withhold only the information we have marked under section 552.101 in conjunction with the common-law informer's privilege.

In summary, the city must release the blood alcohol test results, which we have marked, to this requestor. The city may withhold the remainder of Exhibit C under section 552.108(a)(1) of the Government Code. The city may withhold the information we have marked under section 552.101 in conjunction with the common-law informer's privilege. The remaining information must be released.<sup>3</sup>

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](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 Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 376170

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note the requestor has a special right of access to some of the information being released in this instance. Because such information is confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.