



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 25, 2010

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

OR2010-09357

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# 384267 (Cedar Park Reference No. 10-366).

The City of Cedar Park (the "city") received a request for information related to a specified case. You state that the city has provided some of the requested information to the requestor. You state you will redact a social security number pursuant to section 552.147 of the Government Code.¹ You claim that the remaining requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You raise section 552.108 of the Government Code for the remaining requested information. Subsections 552.108(a)(1) and 552.108(b)(1) provide:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

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

¹Section 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. See Gov't Code § 552.147(b).

...

(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 the requirements of Section 552.021 if:

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

Gov't Code § 552.108(a)(1), (b)(1). A governmental body claiming subsection 552.108(a)(1) or 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). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution. Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a governmental body must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. Instead, the governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. *See Open Records Decision No. 562 at 10 (1990) (construing statutory predecessor)*. The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. *See Open Records Decision No. 409 at 2 (1984) (construing statutory predecessor)*. You state the submitted information relates to a pending case with the city's Police Department. However, we note the report relates to an offense of assault that occurred on August 27, 2004. The longest possible statute of limitations for assault is three years from the date of the commission of the offense. Code Crim. Proc. art. 12.01(7) (limitations on felony not otherwise listed in article 12.01 of Code of Criminal Procedure is three years from date of offense). More than three years have elapsed since the events giving rise to the investigation in the report, and you have not informed this office that any criminal charges were filed within the limitations period in this case. Furthermore, you have not otherwise explained how release of this report would interfere with the detection, investigation, or prosecution of crime. Thus, you have not demonstrated the applicability of section 552.108(a)(1) or section 552.108(b)(1) of the Government Code to the submitted information, and none of the submitted information may be withheld on these bases.

We note the submitted information contains Texas driver's license record information. Section 552.130 of the Government Code excepts from disclosure information relating to a

motor vehicle operator's or driver's license or permit issued by an agency of this state.² See Gov't Code § 552.130(a)(1). The city must withhold the Texas driver's license record information we have marked, as well as the driver's license number you made, under section 552.130.³ As you raise no further exceptions against disclosure of the remaining information, it 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 384267

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We 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.