



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2010

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

OR2010-18172

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# 402132 (Reference No. 10-708).

The City of Cedar Park (the "city") received a request for law enforcement records involving the requestors. You state some of the requested information either has been or will be released. You claim other responsive information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. Criminal history record information ("CHRI") obtained from the National Crime Information Center or the Texas Crime Information Center is confidential under federal and state law. CHRI means "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." *Id.* § 411.082(2). Federal law governs the dissemination of CHRI obtained from the National Crime Information Center network. Federal regulations prohibit the release to the general public of CHRI maintained in state and local CHRI systems. *See* 28 C.F.R. § 20.21(c)(1) ("Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given.") and (c)(2) ("No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that

would not be eligible to receive the information itself.”). The federal regulations allow each state to follow its own individual law with respect to CHRI that it generates. *See* ORD 565 at 10-12; *see generally* Gov’t Code ch. 411 subch. F. Although sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *See id.* § 411.089(b). We have marked CHRI in Exhibit B the city must withhold under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code.

Section 552.108(a)(1) of the Government Code 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[.]” *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and have provided documentation reflecting, the information submitted as Exhibit C is related to a pending criminal investigation. Based on your representation and documentation, we conclude the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code.¹ *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).

Section 552.108(a)(2) excepts “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). You also state, and have provided documentation reflecting, the information submitted as Exhibits D and E is related to criminal investigations that did not result in a conviction or a deferred adjudication. Based on your representation and documentation, we conclude the city may withhold Exhibits D and E under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state. *See id.* § 552.130(a)(2). You have marked Texas license plate and vehicle identification numbers in Exhibit B to be withheld on this basis. As you note, this office issued a previous determination in Open Records Decision No. 684 (2009) authorizing all governmental bodies to withhold a Texas license plate number under section 552.130. Section 552.130 also encompasses a Texas vehicle identification number. We therefore agree the city must withhold the marked Texas

¹As we are able to make this determination, we need not address the city’s other claim for information in Exhibit C.

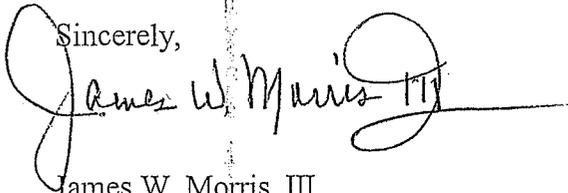
motor vehicle information pursuant to Open Records Decision No. 684 and section 552.130 of the Government Code.²

In summary: (1) the city must withhold the marked CHRI in Exhibit B under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code; (2) the city may withhold Exhibits C, D, and E under section 552.108 of the Government Code; and (3) the city must withhold the marked Texas license plate and vehicle identification numbers in Exhibit B pursuant to Open Records Decision No. 684 and section 552.130 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 402132

Enc: Submitted documents

c: Requestor
(w/o enclosures)

²We note Exhibit B also contains the requestors' Texas driver's license and motor vehicle information, which the city would ordinarily be required to withhold under section 552.130. Because this exception protects personal privacy, the requestors have a right to their own driver's license and motor vehicle information. See Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Should the city receive another request for these same records from a person who would not have a right of access to these requestors' private information, the city should resubmit these records and request another ruling. See Gov't Code §§ 552.301(a), .302.