



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 2, 2011

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

OR2011-01688

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# 407943 (reference number 11-105).

The Cedar Park Police Department (the "department") received a request for any reports pertaining to two named individuals, including two specified incident reports. You state that some responsive information, found in Exhibit B, will be released to the requestor. You also state that a Texas driver's license and license plate number will be redacted under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009), and social security numbers will be withheld pursuant to section 552.147 of the Government Code.¹ You claim that the submitted information in Exhibits C and D is excepted from disclosure pursuant to sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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

¹Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130, without the necessity of requesting an attorney general decision. 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.

Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

You claim that the report submitted as Exhibit D must be withheld in its entirety under common-law privacy. In this instance, the requestor knows the identity of the individual involved as well as the nature of the information in the submitted report. Therefore, withholding only the individual's identity or certain details of the incident from the requestor would not preserve the subject individual's common-law right of privacy. Accordingly, we agree that the submitted report in Exhibit D must be withheld in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

Next, you claim that Exhibit C is excepted under section 552.108(a)(2) of the Government Code, which excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state Exhibit C relates to a criminal investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we conclude that Exhibit C may be withheld under section 552.108(a)(2) of the Government Code.

Finally, section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). As noted above, you state you have redacted certain information under section 552.130 pursuant to Open Records Decision No. 684. However, we note that the vehicle identification number you have redacted in Exhibit B is not subject to Open Records Decision No. 684 and may not be redacted without requesting an attorney general decision. Upon review, we find that the department must withhold the marked vehicle identification number in Exhibit B under section 552.130 of the Government Code.

In summary, Exhibit D must be withheld in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. The department may withhold Exhibit C under section 552.108(a)(2). Finally, the Texas vehicle identification number you have marked in Exhibit B must be withheld under 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,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/dls

Ref: ID# 407943

Enc. Submitted documents

c: Requestor
(w/o enclosures)