



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 14, 2011

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

OR2011-16728

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# 440733 (Cedar Park Ref No. 12-028).

The City of Cedar Park (the "city") received a request for specified incident reports at two specified addresses. You state the city does not have any incident reports for one of the specified addresses.¹ You claim portions of the submitted information are excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) 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, and provide documentation

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

showing, the information submitted as Exhibit C relates to an inactive criminal investigation that is pending additional leads. Further, we note the statute of limitations has not run. Based upon your representation and our review, we conclude release of the information in 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). The city may withhold the information submitted as Exhibit C under section 552.108(a)(1) of the Government Code.²

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than a conviction or deferred adjudication. 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); Open Records Decision No. 434 at 2–3 (1986). You state, and provide documentation showing, the information submitted as Exhibit D relates to an investigation that has concluded and did not result in a conviction or deferred adjudication. Based on this representation and our review, we conclude the city may withhold the information submitted as Exhibit D under section 552.108(a)(2) of the Government Code.³

You assert that some of the information in Exhibit B, which you have marked, is excepted under section 552.130 of the Government Code, which excepts from public disclosure information relating to a driver's license or motor vehicle title or registration issued by an agency of this state or another state or country. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(1), (2)). We find that section 552.130 is applicable to this information. Thus, the city must withhold the information you have marked in Exhibit B under section 552.130.

You assert that some of the information in Exhibit B, which you have marked, is excepted under section 552.147 of the Government Code. Section 552.147 provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act.⁴ Gov't Code § 552.147. Therefore, the city may withhold the social security numbers you have marked in Exhibit B under section 552.147.

²As our ruling for Exhibit C is dispositive, we need not address your remaining arguments against disclosure of this information.

³As our ruling for Exhibit D is dispositive, we need not address your remaining arguments against disclosure of this information.

⁴Section 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. Gov't Code § 552.147(b).

In summary, the city may withhold the information submitted as Exhibit C under section 552.108(a)(1) of the Government Code. The city may withhold the information submitted as Exhibit D under section 552.108(a)(2) of the Government Code. The city must withhold the information you have marked in Exhibit B under section 552.130 of the Government Code. The city may withhold the social security numbers you have marked in Exhibit B under section 552.147 of the Government Code. The city must release the remaining information in Exhibit B.⁵

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 H. Holland
Assistant Attorney General
Open Records Division

THH/ag

Ref: ID# 440733

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁵We note that this requestor has a special right of access under section 552.023 of the Government Code to some of the information being released. *See* Gov't Code § 552.023(a). Therefore, if the city receives another request for this information from a person who does not have a special right of access to this information, the city should resubmit this same information and request another decision from this office. *See id.* §§ 552.301(a), 302; Open Records Decision No. 673 (2001).

