



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 21, 2012

Ms. LeAnn M. Quinn  
City Secretary  
City of Cedar Park  
450 Cypress Creek Road  
Cedar Park, Texas 78613

OR2012-07611

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# 454632 (Cedar Park Reference No. 12-403).

The Cedar Park Police Department (the "department") received a request for twenty categories of information pertaining to a specified incident. You state the department will release some information with insurance policy numbers and social security numbers redacted under sections 552.136 and 552.147 of the Government Code, respectively.<sup>1</sup> You claim the information submitted as Exhibit C is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note Exhibit B contains information subject to common-law privacy. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>2</sup> Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if it (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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685

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<sup>1</sup>Section 552.136 allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e), which you state you will do. *See id.* § 552.136(d), (e). 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. *See id.* § 552.147(b).

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

(Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The type 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. This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally protected by common-law privacy. *See* Open Records Decision Nos. 600 (1992) (finding personal financial information to include choice of particular insurance carrier). Upon review, we find the information we have marked is highly intimate or embarrassing and not of legitimate public concern. Accordingly, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

You indicate you will redact motor vehicle record information in Exhibit B as permitted by section 552.130(c) of the Government Code and Open Records Decision No. 684 (2009). Section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record information described in subsections 552.130(a)(1) and (a)(3). *See* Gov't Code § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor). Open Records Decision No. 684 permits a governmental body to redact Texas license plate numbers, which are made confidential by section 552.130(a)(2), without requesting an attorney general decision. However, we note any other information made confidential by section 552.130(a)(2) is not subject to section 552.130(c) or Open Records Decision No. 684 and therefore may not be withheld without requesting a decision from this office. Thus, in addition to the Texas license plate numbers the department will redact pursuant Open Records Decision No. 684, the department must withhold the vehicle identification numbers you have marked under section 552.130(a)(2) of the Government Code, and the additional information we have marked under section 552.130(a)(1) of the Government Code.

You raise section 552.108 of the Government Code for the information in Exhibit C. Section 552.108 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 prosecution. Based on your representation and documentation, we conclude the department may withhold Exhibit C under section 552.108(a)(1).<sup>3</sup> *See Houston Chronicle Publ'g Co. v. City of*

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<sup>3</sup>As our ruling is dispositive in regards to this information, we need not address your remaining claim.

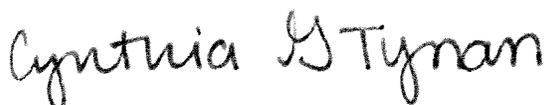
*Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14<sup>th</sup> Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

In summary, in Exhibit B, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy, and the information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code. The department may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The department must release the remaining information.<sup>4</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,



Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/bhf

Ref: ID# 454632

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>4</sup>We note the requestor has a special right of access to some of the information being released in this instance. *See* Gov't Code § 552.023(a). If the department receives another request for this information from a different requestor, then the department should again seek a decision from this office.