



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 5, 2013

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

OR2013-13455

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# 495306 (Cedar Park Reference No. 13-646).

The Cedar Park Police Department (the "department") received two requests from the same requestor for (1) calls for service to a specified address on a specified date and a specified time period, including the department responding to certain types of calls involving a named individual at the specified address; and (2) records for calls from another named individual. You state the department will release some of the requested information. You claim some of the submitted 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 submitted information.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information in Exhibit C relates to a criminal case that is pending prosecution by the Williamson County District Attorney's Office (the "district attorney's

office”). You also submit a letter from the district attorney’s office objecting to release of the information at issue on the basis of the pending prosecution. Based upon these representations and our review, we conclude release of the information at issue would interfere with the detection, investigation, or prosecution of crime; thus, the department may withhold Exhibit C under section 552.108(a)(1).¹ 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).

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. Section 552.101 encompasses the common-law right of 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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *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 found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. See Open Records Decision No. 455 (1987) (information pertaining to prescription drugs, illnesses, operations, and physical disabilities protected from disclosure).

Upon review, we find portions of the remaining information are highly intimate or embarrassing and not of legitimate public concern. Therefore, the department must withhold the information you have marked and the information we have marked under section 552.101 in conjunction with common-law privacy.

You state the department will withhold the driver’s license numbers you have marked under section 552.130(c) of the Government Code² and the Texas license plate numbers you have

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov’t Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See Gov’t Code § 552.130(d), (e).

marked pursuant to Open Records Decision No. 684 (2009).³ Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. *See* Gov't Code § 552.130(a)(1)-(2). Upon review, we conclude the department must withhold the information you have marked and the additional information we have marked under section 552.130.

In summary, the department may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The department must withhold the information you have marked and 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 and we have marked under section 552.130 of the Government Code. The department must release the remaining information.⁴

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.texasattorneygeneral.gov/open/>

³Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, the Texas legislature recently amended section 552.130 to allow a governmental body to redact the information described in subsection 552.130(a)(2) of the Government Code without the necessity of seeking a decision from the attorney general. Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov't Code § 552.130(d), (e). Thus, the statutory amendment to section 552.130 of the Government Code supercedes Open Records Decision No. 684. Therefore, a governmental body may redact information subject to subsection 552.130(a)(2) only in accordance with section 552.130, not Open Records Decision No. 684.

⁴We note the information being released contains the requestor's client's information that is subject to section 552.130(a) of the Government Code, to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code §§ 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests), .130. As previously noted, section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov't Code § 552.130(d), (e). Thus, if the department receives another request for this same information from a person who does not have such a right of access, section 552.130(c) authorizes the department to redact the requestor's client's information that is subject to section 552.130(a).

[orl_ruling_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive, flowing style.

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 495306

Enc. Submitted documents

c: Requestor
(w/o enclosures)