



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 18, 2009

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

OR2009-06740

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# 347935 (Cedar Park Reference No 09-121).

The Cedar Park Police Department (the "department") received a request for information pertaining to a specified incident. You state that you are releasing some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. You also state, and provide documentation showing, that you notified the individual whose privacy interests are at issue of the request and of his right to submit arguments to this office as to why the information should not be released. *See generally* Gov't Code §§ 552.304 (providing that interested party may submit comments stating why information should or should not be released), 552.305(d). We have considered the exceptions you claim and reviewed the submitted information.

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[.]" Gov't Code § 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 claim that the submitted information relates to a pending investigation. Based on your

representations and our review of the information at issue, we conclude that the release of the submitted information 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), *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). Thus, section 552.108(a)(1) is applicable to this information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 185-86. Therefore, with the exception of basic information, which you state will be released to the requestor, the department may withhold Exhibits C, D, and E pursuant to section 552.108 of the Government Code.¹

Next, you assert some of the remaining submitted information is excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a driver's license or permit issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). We note that the purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, Texas motor vehicle record information that pertains to a deceased individual may not be withheld under section 552.130. *See Moore v. Charles B. Pierce Film Enterprises, Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, *writ ref'd n.r.e.*) (Texas does not recognize relational or derivative right of privacy); *see also* Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981). The Texas motor vehicle record information you have marked pertains to deceased individuals. Therefore, the department may not withhold that information under section 552.130 of the Government Code.

In summary, with the exception of basic information, the department may withhold Exhibits C, D, and E under section 552.108(a)(1). The remaining information must be released.

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

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

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 347935

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

cc: Mr. Lance Whitehead
1518 Ullrich
Austin, TX 78756
(w/o enclosures)