



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 11, 2013

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

OR2013-21491

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# 511563 (Ref. No. 14-042).

The City of Cedar Park (the "city") received a request for information pertaining to a specified address during a specified time period. You state you will make some of the responsive information available to the requestor. You claim the remaining information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 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 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. *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 satisfied. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. In addition, a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person.

Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

You assert Exhibits C and D are excepted from disclosure in its entirety because the present request requires the city to compile unspecified law enforcement records concerning a certain individual, thus implicating this individual's right to privacy. We note, however, the request is for information pertaining to a specified address. Thus, we find this request does not require the city to compile an individual's criminal history and does not implicate the privacy interests of any individual. Accordingly, the city may not withhold Exhibit C and D under section 552.101 in conjunction with common-law privacy as a criminal history compilation.

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 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 that release Exhibit D will interfere with a pending criminal prosecution. Based on this representation, we conclude that section 552.108(a)(1) is generally applicable in this instance. *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). We note, however, that the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The city provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108.

Next, you claim Exhibit C is excepted from disclosure 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 pertains to criminal investigation that has concluded and that did not

result in conviction or deferred adjudication. Based on your representation and our review, we find that section 552.108(a)(2) is applicable to Exhibit C.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; see also Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, with the exception of the DIC-24 and DIC-25 forms and basic information, the city may withhold Exhibit D under section 552.108(a)(1) of the Government Code. Furthermore, with the exception of basic information, the city may withhold Exhibit C under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code provides that information relating 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 is excepted from public release. See Gov't Code § 552.130(a)(1)-(2). Accordingly, the city must withhold the information you have marked in Exhibit B and the DIC-24 and DIC-25 forms under section 552.130 of the Government Code.¹

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147(a). Therefore, the city may withhold the social security numbers you have marked under section 552.147(a).²

In summary, with the exception of the DIC-24 and DIC-25 forms and basic information, the city may withhold Exhibit D under section 552.108(a)(1) of the Government Code. Furthermore, with the exception of basic information, the city may withhold Exhibit C under section 552.108(a)(2) of the Government Code. The city must withhold the information you have marked in Exhibit B and the DIC-24 and DIC-25 forms under section 552.130 of the Government Code. The city may withhold the social security numbers you have marked under section 552.147 of the Government Code. The city must release the remaining information in Exhibit B.

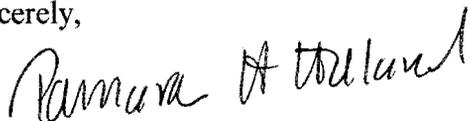
¹We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e).

²We note 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. Gov't Code § 552.147(b).

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/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 "Tamara H. Holland". The signature is written in a cursive style.

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/dls

Ref: ID# 511563

Enc. Submitted documents

c: Requestor
(w/o enclosures)