



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 8, 2015

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

OR2015-06704

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# 559337 (Cedar Park Ref. No. 15-456).

The City of Cedar Park (the "city") received a request for a specified incident report involving a named individual. You state you will release some responsive information to the requestor. You further state you will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 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 the release of the information at issue would interfere with law enforcement. *See id.*

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<sup>1</sup> 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).

§§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). You state, and provide documentation showing, Exhibit C relates to a pending criminal prosecution. Based on this representation, we conclude the release of 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code.<sup>2</sup>

Section 552.101 of the Government Code excepts “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 that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information we have marked in Exhibit B meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information you have marked does not identify an individual to whom the information pertains, and therefore, does not implicate any individual’s right to privacy. Accordingly, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

As previously noted, you state the city will withhold the motor vehicle record information you have marked under section 552.130(c) of the Government Code. Section 552.130 provides information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov’t Code § 552.130(a). We conclude the city must generally withhold the information you have marked, as well as the additional information we have marked, in Exhibit B under section 552.130 of the Government Code. However, if the requestor is acting as the authorized representative of the named individual, then the requestor has right of access to that individual’s information under section 552.023 of the Government Code. *See id.* § 552.023(b); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated

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<sup>2</sup> As our ruling is dispositive, we do not address your other arguments to withhold this information.

when individual requests information concerning himself). Thus, if the requestor is acting as the authorized representative of the named individual, then the city may not withhold any of this individual's information in Exhibit B under section 552.130 of the Government Code.

In summary, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The city must withhold the information we have marked in Exhibit B under section 552.101 of the Government Code in conjunction with common-law privacy. The city must generally withhold the information you have marked, as well as the additional information we have marked, in Exhibit B under section 552.130 of the Government Code; however, if the requestor is acting as the authorized representative of the named individual, then the city may not withhold any of this individual's information in Exhibit B under section 552.130. 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 559337

Enc. Submitted documents

c: Requestor  
(w/o enclosures)