



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 6, 2017

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

OR2017-25362

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# 682992 (Ref. No. 17-1258).

The Cedar Park Police Department (the "department") received a request for reports pertaining to the requestor and a named individual. You state you will make some information available to the requestor. You state you will redact social security numbers under section 552.147(b) of the Government Code.<sup>1</sup> You claim some of 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). Generally, a governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1),

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<sup>1</sup>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. *See* Gov't Code § 552.147(b).

.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state Exhibit D relates to a pending criminal investigation, and release of that information would interfere with the investigation and prosecution of the case. Based upon this representation, we conclude the release of the information at issue 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) (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). Thus, section 552.108(a)(1) is applicable to Exhibit D.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate 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); Open Records Decision No. 434 (1986). You state Exhibit C pertains to criminal investigations that did not result in convictions or deferred adjudications. Based on this representation, we agree 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.” Gov't Code § 552.108(c). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the department may withhold Exhibit D under section 552.108(a)(1) of the Government Code and Exhibit C under section 552.108(a)(2) 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). The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). Upon review, we conclude some of the information in Exhibit B meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, we find no portion of the remaining information at issue is highly intimate or embarrassing and of no legitimate public concern. Accordingly, except for the information we have marked for release, the department must withhold the information you have marked in Exhibit B under section 552.101 of the Government Code in conjunction with common-law privacy. The department may not withhold any of the information we have marked for release under section 552.101 of the Government Code on the basis of common-law privacy.

You state you will redact the motor vehicle record information you have marked in Exhibit B under section 552.130(c) of the Government Code.<sup>3</sup> Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov't Code* § 552.130. Upon review, we find the department must withhold the additional motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, with the exception of basic information, which must be released, the department may withhold Exhibit D under section 552.108(a)(1) of the Government Code and Exhibit C under section 552.108(a)(2) of the Government Code. Except for the information we have marked for release, the department must withhold the information you have marked in Exhibit B under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the additional motor vehicle record information we have marked in Exhibit B under section 552.130 of the Government Code. The department must release the remaining information.

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.

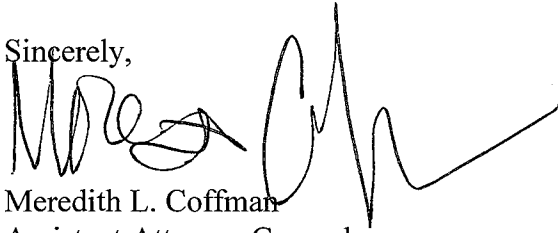
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>3</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).

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, appearing to read 'Meredith L. Coffman', written over a horizontal line.

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/tdw

Ref: ID# 682992

Enc. Submitted documents

c: Requestor  
(w/o enclosures)