



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 31, 2010

Mr. Jose Hernandez
Records Clerk
Edinburg Police Department
1702 South Clossner Boulevard
Edinburg, Texas 78539

OR2010-04573

Dear Mr. Hernandez:

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# 379435.

The Edinburg Police Department (the "department") received a request for information pertaining to a specified incident. You claim portions of the submitted information are excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) 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 indicate that the submitted information relates to a pending criminal investigation. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the information you have marked. *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. ri. iei. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note that 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 front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. Basic information includes, among other things, a detailed description of the offense. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus with the exception basic information, including a detailed description of the offense, the department may withhold the information you have marked under section 552.108(a)(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 motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. Gov't Code. § 552.130(a)(1), (2). 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). Some of the Texas motor vehicle record information you have marked pertains to a deceased individual. Therefore, the department may not withhold that information under section 552.130 of the Government Code. However, the department must withhold the remaining information you have marked, as well as the additional information we have marked, under section 552.130.¹

Finally, you have marked a social security number in the remaining submitted information. Section 552.147 of the Government Code provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. Therefore, the department may withhold the marked social security number in the remaining information under section 552.147 of the Government Code.²

In summary, with the exception basic information, including a detailed description of the offense, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. With the exception of the information you have marked pertaining to the deceased individual, the department must withhold the

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

²We note that 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.

information you have marked, as well as the information we have marked, under section 552.130 of the Government Code. The department may withhold the marked social security number in the remaining information under section 552.147 of the Government Code. The remaining submitted 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 information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/dls

Ref: ID# 379435

Enc. Submitted documents

c: Requestor
(w/o enclosures)