



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 30, 2010

Mr. Robert R. Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606

OR2010-09634

Dear Mr. Ray:

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# 385145.

The Longview Police Department (the "department") received two requests from different requestors. The first request is for all reports, supplements, photographs, statements, call sheets, documents and a 9-1-1 call related to a specified collision. The second request is for all reports, photographs, blood specimen analyses, and other investigative material related to the same specified collision. You state the department released a copy of the Texas Peace Officer's Crash Report Form CR-3 to each requestor. *See* Transp. Code § 550.065(c)(4) (governmental body must release accident report to a person who provides two of the following three items of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident). You state basic information will be released to the requestors. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.103, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the submitted information contains a search warrant that has been filed with a court. Court-filed documents are expressly public under section 552.022(a)(17) of the Government Code. Such information must be released unless it is expressly confidential under other law. You claim the search warrant is excepted from disclosure under section 552.108 of the

Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's interests and is, therefore, not "other law" for purposes of section 552.022(a)(17). *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Thus, the search warrant may not be withheld under section 552.108. However, because information subject to section 552.022 may be withheld under section 552.130, we will consider the applicability of this exception to the submitted search warrant. We will also consider the department's claims for the information not subject to section 552.022(a)(17).

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Therefore, the department must withhold the information we have marked in the submitted search warrant under section 552.130. You also raise section 552.130 for portions of the remaining information not subject to section 552.022. 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 driver's license and motor vehicle record information that pertains to a deceased individual may not be withheld under section 552.130. *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. 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). The department must generally withhold the Texas driver's license and motor vehicle information you have marked under section 552.130 of the Government Code. However, we note that one of the Texas driver's license numbers you have marked relates to an individual who is now deceased. Accordingly, the Texas driver's license number that pertains to the deceased individual must be released. We further note that, in this instance, the first requestor has a right of access under section 552.023 of the Government Code to Texas motor vehicle record information relating to the requestor's insured person. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, the department must release the first requestor's insured person's Texas motor vehicle record information to the first requestor. The department must withhold from both requestors the remaining Texas motor vehicle record information you have marked that relates to living individuals under section 552.130.¹

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

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 numbers and Texas license plate numbers, under section 552.130, without the necessity of requesting an attorney general decision.

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 the remaining information not subject to section 552.022, which you have marked, pertains to a pending criminal investigation and prosecution. Based on your representations and our review, we determine release of the remaining information you have marked 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).

As you acknowledge, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-8; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which you state will be released, the department may withhold the remaining information you have marked under section 552.108(a)(1).²

You claim section 552.147 of the Government Code for portions of the remaining information. Section 552.147 provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.³ Gov't Code § 552.147. We note one of the social security numbers you have marked pertains to a deceased individual. By its terms, section 552.147 is not applicable to the social security number of a deceased individual. Therefore, the department may only withhold social security numbers pertaining to living persons under section 552.147.

In summary, with the exception of the information we have marked under section 552.130 of the Government Code, the department must release the search warrant we have marked under section 552.022(a)(17) of the Government Code. The department must release the first requestor's insured person's Texas motor vehicle record information to the first requestor but must withhold from both requestors the remaining Texas motor vehicle record information you have marked that relates to living individuals under section 552.130 of the Government Code. With the exception of basic information, which you state will be released, the department may withhold the remaining information you have marked under

²As our ruling is dispositive, we need not address your remaining arguments against disclosure, except to note that basic information may generally not be withheld from public disclosure under section 552.103. Open Records Decision No. 597 (1991).

³Section 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. *See* Gov't Code § 552.147(b).

section 552.108(a)(1) of the Government Code. The department may withhold social security numbers pertaining to living persons under section 552.147 of the Government Code. 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 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 385145

Enc. Submitted documents

c: Requestors
(w/o enclosures)