



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 4, 2010

Mr. Marc J. Schnall
Langley & Banack, Inc.
745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

OR2010-15069

Dear Mr. Schnall:

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# 395526.

The City of Selma (the "city"), which you represent, received a request for a specified police report, as well as the name and contact information for specified medical/psychiatric personnel. You claim some of the requested information is 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 representative sample of information.¹

Section 552.108(a)(2) 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 it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is

¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate the information you marked pertains to a closed investigation that did not result in a conviction or deferred adjudication. Based on your representations and our review, we agree the city may withhold the information you marked under section 552.108(a)(2).

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1). 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 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 city must generally withhold the Texas driver's license numbers 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. The city must withhold the remaining Texas driver's license numbers you have marked that relate to living individuals under section 552.130.

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.² Gov't Code § 552.147. You inform us one of the social security numbers in the submitted information pertains to a deceased individual. By its terms, section 552.147 is not applicable to the social security number of a deceased individual. We agree, the city may withhold the social security numbers pertaining to living persons, which you have marked, under section 552.147.

In summary, the city may withhold the information you marked under section 552.108(a)(2) of the Government Code. With the exception of the Texas driver's license number that pertains to the deceased individual, the city must withhold the Texas driver's license numbers you have marked under section 552.130 of the Government Code. The city may withhold social security numbers pertaining to living persons under section 552.147. 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.

²Section 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).

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,

A handwritten signature in black ink, appearing to read "Tamara Wilcox". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 395526

Enc. Submitted documents

c: Requestor
(w/o enclosures)