



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 15, 2012

Ms. Sol M. Cortez  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9th Floor  
El Paso, Texas 79901

OR2012-02355

Dear Ms. Cortez:

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# 449241.

The El Paso Police Department (the "department") received a request for a specified incident report. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

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). 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted report pertains to a case that did not end in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) applies to the information at issue. Therefore, with the exception of the information you have marked for release, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's or driver's license, title, or registration issued by an agency of this state or another state or country. *Id.* § 552.130(a)(1)-(2). We note the purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy

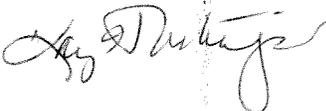
lapses at death, motor vehicle record information that pertains solely to deceased individuals may not be withheld under section 552.130. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489 at 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *see also* Attorney General Opinions JM-229 (1984); H-917 (1976); ORD 272 at 1. The information you have marked is motor vehicle record information of a vehicle belonging to a deceased individual. If a living person owns an interest in the deceased individual's vehicle, the department must withhold the motor vehicle record information pertaining to that vehicle under section 552.130 of the Government Code. However, if no living person owns an interest in the vehicle at issue, the department may not withhold the marked motor vehicle record information pertaining to that vehicle under section 552.130.

In summary, with the exception of the information you have marked for release, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code. If a living person owns an interest in the deceased individual's vehicle, the department must withhold the motor vehicle record information you have marked under section 552.130 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](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,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KH/agn

Ref: ID # 449241

Enc. Submitted documents

c: Requestor  
(w/o enclosures)