



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 7, 2012

Ms. Kristen Hamilton
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, Ninth Floor
El Paso, Texas 79901

OR2012-03402

Dear Ms. Hamilton:

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# 451226.

The El Paso Police Department (the "department") received a request for information related to a fatal motor vehicle accident. You state some of the requested information has been released. You claim the rest of the requested information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the submitted information contains a CR-3 crash report, which was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See id.* § 550.065(b). Section 550.065(c)(4) provides for the release of an accident report to a person who provides two of the following three items of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the items of information specified by the statute. *Id.* In this instance, the requestor has provided all three of the specified items of information to the department. We note the exceptions to disclosure found

in the Act are generally not applicable to information another statute makes public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, the department must release an unredacted copy of the crash report to the requestor pursuant to section 550.065(c)(4) of the Transportation Code.

Next, we address your claim under section 552.108 of the Government Code. 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 state release of the remaining information would interfere with a pending criminal case. Based on your representation, we conclude section 552.108(a)(1) is applicable in this instance. *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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, with the exception of the information you have marked for release, the department may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

You indicate that the social security number of a deceased individual was redacted from the information that was released. 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. Therefore, the deceased individual’s social security number may not be withheld under section 552.147 and must be released.

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 of the Government Code.

In summary, the department must release an unredacted copy of the crash report to the requestor pursuant to section 550.065(c)(4) of the Transportation Code. With the exception of the information you have marked for release, the department may withhold the remaining submitted information under section 552.108(a)(1) 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, including the decedent's social security number, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 451226

Enc. Submitted documents

c: Requestor
(w/o enclosures)