



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 19, 2012

Ms. Judith N. Benton
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2012-03927

Dear Ms. Benton:

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# 448071 (LGL-11-1823).

The Waco Police Department (the “department”) received a request for information related to a specified automobile accident. We understand you will release some of the requested information, including the related crash report, upon receipt of production cost. You claim that portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 claiming section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *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 information you have marked relates to an ongoing criminal investigation. Based on your representations and our review, we find that release of the information at issue 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) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536

S.W.2d 559 (Tex. 1976). Thus, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, or motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Upon review, we find the department must withhold the motor vehicle record information relating to living individuals, which you have marked, under section 552.130. 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*, 589 S.W.2d at 491; *see also* Attorney General Opinions JM-229 (1984); H-917 (1976); ORD 272 at 1. We have marked motor vehicle record information of vehicles belonging to deceased individuals. If a living person owns an interest in the deceased individuals' vehicles, the department must withhold the motor vehicle record information, which we have marked, pertaining to these vehicles under section 552.130 of the Government Code. If no living person owns an interest in the vehicles at issue, the department may not withhold the marked motor vehicle record information pertaining to these vehicles under section 552.130.

Section 552.136 of the Government Code provides “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”¹ Gov't Code § 552.136(b). An access device number is one that may be used to (1) obtain money, goods, services, or another thing of value, or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an insurance policy number. *See id.* § 552.136(a) (defining “access device”). Upon review, we find the department must withhold the information we have marked under section 552.136 of the Government Code.

In summary, the department may withhold the information it has marked under section 552.108(a)(1) of the Government Code. The department must withhold the motor vehicle record information relating to living individuals, which you have marked, under section 552.130 of the Government Code. If a living person owns an interest in the deceased individuals' vehicles, the department must withhold the marked motor vehicle record information pertaining to these vehicles under section 552.130 of the Government Code. If no living person owns an interest in the vehicles at issue, the department may not withhold the marked motor vehicle record information pertaining to these vehicles under section 552.130 of the Government Code. The department must withhold the information we have marked under section 552.136 of the Government Code. The remaining information must be released.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in black ink, appearing to read 'VB', followed by a long horizontal line extending to the right.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 448071

Enc. Submitted documents

c: Requestor
(w/o enclosures)