



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 30, 2013

Mr. Marc J. Schnall
For City of Selma
Langley & Banack Incorporated
745 East Mulberry, Suite 900
San Antonio, Texas 78212

OR2013-07106

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# 490016.

The City of Selma (the "city"), which you represent, received three requests for information pertaining to a specified incident. You state the city is releasing some information to the requestors. You claim some the submitted 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)(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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue relates to a pending criminal investigation. Based upon this representation, we conclude section 552.108(a)(1) is applicable to the information you have

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 those records contain substantially different types of information than those submitted to this office.

marked and the 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). Accordingly, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

You state the city may redact any driver's license numbers, Texas license plate numbers, and Texas vehicle identification numbers without requesting a ruling from this office. We note section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the types of information described in subsections 552.130(a)(1) and (a)(3). *See Gov't Code* § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide prescribed notice to requestor). Additionally, Open Records Decision No. 684 (2009) authorizes a governmental body to redact a Texas license plate number, which is protected by section 552.130(a)(2), without requesting an attorney general decision. ORD 684 at 7-8. However, neither section 552.130(c) nor Open Records Decision No. 684 authorize the city to redact the vehicle identification number you have marked under section 552.130 without requesting a ruling from this office. We note section 552.130 excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country; a motor vehicle title or registration issued by an agency of this state or another state or country; or a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document. *Gov't Code* § 552.130(a). The information you have marked pertains to living individuals and a deceased individual. 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, 491 (Tex. App.—Texarkana 1979, *writ ref'd n.r.e.*); *see also* Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981). Consequently, the city may not withhold the deceased's driver's license information under section 552.130 of the Government Code. If a living person owns an interest in the deceased individual's vehicle, the city must withhold the information you have marked pertaining to that vehicle under section 552.130 of the Government Code. If no living person owns an interest in the vehicle at issue, the city may not withhold such information under section 552.130. The city must withhold the information you have marked, and the information we have marked, pertaining to the living individuals under section 552.130.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a).

Therefore, the city may withhold the social security number you have marked under section 552.147(a).²

In summary, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The city must withhold the information you have marked and the information we have marked pertaining to the living individuals under section 552.130 of the Government Code. If a living person owns an interest in the deceased individual's vehicle, the city must also withhold the marked motor vehicle record information pertaining to that vehicle under section 552.130 of the Government Code. The city may withhold the social security number you have marked 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 490016

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)

²As you acknowledge, 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. *Id.* § 552.147(b).