



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 5, 2009

Ms. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Division  
1400 South Lamar  
Dallas, Texas 75215

OR2009-02898

Dear Ms. Armstrong:

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# 336514 (Dallas Open Record Request No. 2008-8789).

The Dallas Police Department (the "department") received a request for information pertaining to a specified incident. You claim that portions of the requested information are 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.<sup>1</sup>

Section 552.108 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception 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 inform us that the

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<sup>1</sup>We assume that 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.

submitted information relates to a pending criminal investigation and prosecution. Based upon your representation and our review, we find that section 552.108(a)(1) is applicable to the information you have marked in the submitted information. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). The department may, therefore, withhold the information you have marked pursuant to section 552.108(a)(1) of the Government Code. We note that you have the discretion to release all or part of the information you have marked under section 552.108 that is not otherwise confidential by law. Gov't Code § 552.007.

Next, you claim that the Texas motor vehicle information you have marked in the remaining information is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

*Id.* § 552.130(a). We have marked Texas license plate information and a vehicle identification number pertaining a vehicle driven by an individual who is now deceased. We note that section 552.130 is designed to protect the privacy of individuals, and the right to privacy lapses at death. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489 (Tex. App.—Texarkana 1979, *writ ref'd n.r.e.*); *see also* Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). We also note that it appears that the requestor is related to the deceased individual and may have a right of access to the information we have marked if she has an ownership interest in the vehicle at issue. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, to the extent the information we have marked pertains to a vehicle owned by a living person, it must be withheld under section 552.130; however, this information may not be withheld under section 552.130 if it pertains to a deceased individual or if the requestor has a right of access to it pursuant to section 552.023. The department must withhold the remaining Texas motor vehicle information that you have marked under section 552.130 of the Government Code.

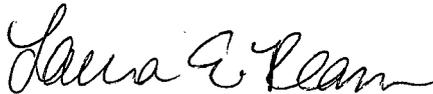
In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. Unless the Texas motor vehicle information we have marked pertains to a deceased individual or the requestor has a right of access to it pursuant to section 552.023 of the Government Code, the department must withhold the information we have marked under section 552.130 of the Government Code. The

department must withhold the remaining information you have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.

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 at (512) 475-2497.

Sincerely,



Laura E. Ream  
Assistant Attorney General  
Open Records Division

LER/jb

Ref: ID# 336514

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)