



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 29, 2009

Ms. Julia Gannaway
Lynn Pham & Ross, L.L.P.
306 West Broadway Avenue
Fort Worth, Texas 76104

OR2009-08935

Dear Ms. Gannaway:

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# 351817.

The La Marque Police Department (the "department"), which you represent, received five requests for information pertaining to five specified homicides. You state that you have released some of the requested information. You claim that some of the submitted 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.

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 that the submitted information is related to pending criminal cases. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the information you have marked. *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. ri. iei. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. Basic information includes, among other things, an identification and description of the complainant, a detailed description of the offense, and any property involved. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus with the exception basic information, including the property involved and complainants’ identities, the department may withhold the rest of the information you have marked under section 552.108(a)(1).

Next, you assert some of the remaining submitted information is excepted from disclosure pursuant to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a driver’s license or permit issued by an agency of this state. See Gov’t Code § 552.130(a)(1). We note that the purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, Texas motor vehicle record information that pertains to a deceased individual may not be withheld under section 552.130. See *Moore v. Charles B. Pierce Film Enterprises, Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref’d n.r.e.) (Texas does not recognize relational or derivative right of privacy); see also Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981). Some of the Texas motor vehicle record information you have marked pertains to deceased individuals. Therefore, the department may not withhold that information under section 552.130 of the Government Code. However, the department may withhold the remaining information you have marked under section 552.130.

In summary, with the exception basic information, including the property involved and complainants’ identities, the department may withhold the rest of the information you have marked under section 552.108(a)(1). With the exception fo the information you have marked pertaining to deceased individuals, the department must withhold the information you have marked under section 552.130. 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 at (512) 475-2497.

Sincerely,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 351817

Enc. Submitted documents

cc: Requestor
(w/o enclosures)