



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 1, 2009

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2009-13816

Dear Mr. Mann:

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# 361532 (Garland Identification Number GCA08-0686).

The Garland Police Department (the "department") received two requests for a specified incident report. You claim that portions of the submitted information are excepted from disclosure under sections 552.108, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim that the information that you have marked in red is excepted from disclosure 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). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the submitted report relates to a pending criminal 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 red. *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 in red pursuant to section 552.108(a)(1) of the Government Code.¹ We note that you have the discretion to release all or part of the

¹As our ruling is dispositive with respect to the information marked in red, we need not address your remaining arguments against the disclosure of portions of that information.

information you have marked in red that is not otherwise confidential by law. Gov't Code § 552.007.

Next, you claim that the remaining information you have marked in green is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130(a)(1)-(2). We note that section 552.130 protects the privacy interests of individuals, and because the right of privacy is purely personal, it lapses upon 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 have marked the Texas license plate number belonging to a deceased individual for release. However, the department must withhold the remaining information that you have marked in green under section 552.130 of the Government Code.

In summary, the department may withhold the information you have marked in red under section 552.108(a)(1) of the Government Code. Except for the information we have marked for release, the department must withhold the remaining information you have marked in green under section 552.130 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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 361532

Enc. Submitted documents

c: Requestor
(w/o enclosures)