



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 5, 2014

Mr. Andrew Warthen
Assistant Criminal District Attorney
Civil Section
Bexar County Criminal District Attorney's Office
300 Dolorosa, 5th Floor
San Antonio, Texas 78205-3030

OR2014-03728

Dear Mr. Warthen:

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# 515746.

The Bexar County Medical Examiner's Office (the "medical examiner's office") received a request for information pertaining to a specified case number. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, you state the medical examiner's office previously released the requested information to the public. We note the Act does not permit selective disclosure of

¹We note that, although you raise section 552.101 of the Government Code, you make no argument to support this exception. Therefore, we presume you have withdrawn your claim this exception applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

²This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

information to the public. *See* Gov't Code §§ 552.007(b), .021; Open Records Decision No. 463 at 1-2 (1987). Information that has been voluntarily released to a member of the public may not subsequently be withheld from another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007(a); Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988), 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under Act, but it may not disclose information made confidential by law). Accordingly, the medical examiner's office may not withhold previously released information unless its release is expressly prohibited by law or the information is confidential by law. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code and state, as a representative of the Bexar County Criminal District Attorney's Office (the "district attorney's office"), the district attorney's office objects to the release of the information due to its pending investigation and prosecution of the incident at issue. However, we note section 552.108 is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Open Records Decision No. 177 at 3 (1997) (statutory predecessor to section 552.108 subject to waiver). Accordingly, because section 552.108 does not prohibit release of the information or make it confidential, the medical examiner's office may not withhold the submitted information on this basis. However, we note portions of the submitted information are subject to section 552.130 of the Government Code, which is a confidentiality provision for the purposes of section 552.007 of the Government Code.³ As such, we will address the applicability of this exception to the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). We note section 552.130 is designed to protect the privacy of individuals, and the right to privacy expires at death. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); Open Records Decision No. 272 at 1 (1981). Upon review, we conclude the medical examiner's office must withhold the motor vehicle record information we have marked under section 552.130.⁴ As no further exceptions are raised, the medical examiner's office must release the remaining information.

³The 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).

⁴We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive style with a large initial "L".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 515746

Enc. Submitted documents

c: Requestor
(w/o enclosures)