



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 27, 2016

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2016-09477

Dear Ms. Aguilar:

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# 607707 (CCPD File Nos. CSol2, DBur1, EPer3, & MEub1).

The Corpus Christi Police Department (the "department") received four requests from different requestors for information pertaining to a specified incident. You state you are withholding some information pursuant to a previous determination issued by our office in Open Records Letter No. 2016-00831 (2016).¹ You claim the submitted information is excepted from disclosure under section 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) 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 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

¹Open Records Letter No. 2016-00831 is a previous determination issued to the department authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

state the information you have marked relates to a pending criminal investigation. Upon review, we conclude 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 present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.²

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the information you have marked consists of motor vehicle record information. We note section 552.130 is designed to protect individual privacy, and the right to privacy lapses at death. *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* Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). Thus, the department may not withhold the driver's license information you marked that relates to a deceased individual. Additionally, you acknowledge the first and third requestors have a right of access to some of the remaining motor vehicle record information. *See* Gov't Code § 552.023 (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, we conclude, with the exception of the driver's license information that relates to a deceased individual, which we have marked for release, the department must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code; however, the department must release the motor vehicle record information you have indicated to the first and third requestors.

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. With the exception of the driver's license information that relates to a deceased individual, which we have marked for released, the department must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code; however the department must release the motor vehicle record information you have indicated to the first and third requestors. The department must release the remaining information.

²You ask this office to issue a previous determination permitting the department to withhold, with the exception of basic information, information under section 552.108 of the Government Code. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). Please note the department may withhold such information without the necessity of requesting an attorney general decision pursuant to Open Records Letter No. 2016-06957 (2016).

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,



Joseph Keeney
Assistant Attorney General
Open Records Division

JDK/dls

Ref: ID# 607707

Enc. Submitted documents

c: 4 Requestors
(w/o enclosures)