



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 11, 2019

Mr. Ryan Kerr
Assistant County Attorney
El Paso County
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2019-18804

Dear Mr. Kerr:

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# 774630 (OME File No. 19-0099; EPCAO File No. OP-19-282).

The El Paso Office of the Medical Examiner (the "medical examiner's office") received a request for all records pertaining to a deceased individual. You state the medical examiner's office released information to the requestor, but made redactions as permitted by section 552.130(c) of the Government Code without requesting a decision from this office.¹ Pursuant to section 552.130(d), the requestor has asked this office to review the information redacted by the medical examiner's office and render a decision as to whether it is excepted from disclosure under section 552.130(a) of the Government Code. We have considered the medical examiner's position and reviewed the information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a 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. We note the purpose of section

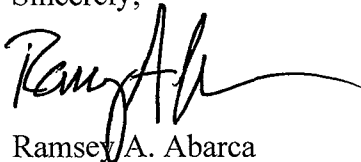
¹We note the medical examiner's office previously submitted a request for a ruling pursuant to section 552.301(a) of the Government Code regarding the remaining information requested by this requestor. As a result this office issued Open Records Letter No. 2019-17619 (2019) in which we ruled the medical examiner's office may withhold the information at issue under section 552.108(a)(1) of the Government Code.

552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, a governmental body may not withhold motor vehicle record information that pertains solely to deceased individuals under section 552.130. *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.); see also *Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145, 147 (N.D. Tex. 1979) (“action for invasion of privacy can be maintained only by a living individual whose privacy is invaded” (quoting RESTATEMENT (SECOND) OF TORTS § 652I (1977))); Attorney General Opinions JM-229 (1984) (“the right of privacy lapses upon death”), H-917 (1976) (“We are . . . of the opinion that the Texas courts would follow the almost uniform rule of other jurisdictions that the right of privacy lapses upon death.”); Open Records Decision No. 272 (1981) (“the right of privacy is personal and lapses upon death”). Accordingly, the medical examiner’s office must continue to withhold the motor vehicle record information pertaining to a living individual previously redacted under section 552.130 of the Government Code.

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 774630

Enc. Submitted documents

c: Requestor
(w/o enclosures)