



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2009

Ms. M. Ann Montgomery
Assistant Ellis County and District Attorney
Ellis County
1201 North Highway 77, Suite 104
Waxahachie, Texas 75165-7832

OR2009-15638

Dear Ms. Montgomery:

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# 360379.

The Ellis County Sheriff's Office (the "sheriff") received a request for the names of individuals who were issued a citation or arrested at a specified location on a specified date. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as section 58.007 of the Family Code. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). Under section 58.007, juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential. *See id.* § 51.03(a), (b) (defining “delinquent conduct” and “conduct indicating a need for supervision”). For purposes of section 58.007, a “child” is person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Based on your representations and our review, we conclude that the information you have marked involves juvenile delinquent conduct that occurred after September 1, 1997. You indicate that none of the exceptions in section 58.007 apply to this information. Therefore, we find that section 58.007 is applicable to the information you have marked and it must be withheld under section 552.101.

Next, you raise section 552.108 of the Government Code for some of the remaining information. Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a). Generally, a governmental body claiming section 552.108 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 state that the information you have marked relates to a pending criminal investigation or prosecution. Based upon this representation and our review, we conclude that 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), *writ ref’d n.r.e. per curiam*, 536 S.W.2d. Thus, we agree that the sheriff may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Section 552.130 excepts from disclosure information that relates to a driver’s license or motor vehicle title or registration issued by an agency of this state. Gov’t Code § 552.130. Accordingly, the sheriff must withhold the Texas motor vehicle record information you have marked under section 552.130.

Finally, you raise section 552.147 of the Government Code for some of the remaining information. Section 552.147 provides that “[t]he social security number of a living person

is excepted from" required public disclosure under the Act.¹ *Id.* § 552.147. We agree that the sheriff may withhold the social security numbers you have marked under section 552.147 of the Government Code.

In summary, the sheriff must withhold the information you have marked under section 58.007(c) of the Family Code in conjunction with section 552.101 of the Government Code. The sheriff may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The Texas motor vehicle record information you have marked must be withheld under section 552.130 of the Government Code. The social security numbers you have marked may be withheld under section 552.147 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,



Greg Henderson
Assistant Attorney General
Open Records Division

GH/rl

Ref: ID# 360379

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.