



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 5, 2010

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

OR2010-00153

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# 366312.

The Ellis County and District Attorney's Office (the "district attorney") received a request for information pertaining to a named individual. You state that you will release some information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.103, 552.108, 552.130, and 552.147 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

You assert portions of the submitted information are confidential pursuant to section 552.108 of the Government Code. Section 552.108 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to pending criminal investigations in various stages of prosecution. Based on this representation, we conclude the district attorney may withhold the portions of the remaining information it has marked under section 552.108(a)(1) of the Government Code. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177

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<sup>1</sup>Although you have marked a portion of the submitted information under section 552.101 of the Government Code, you have not submitted any arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information.

(Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).<sup>2</sup>

You next assert portions of the remaining information are confidential pursuant to section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Upon review, we find the district attorney must withhold some of the information it has marked, as well as the additional information we have marked, under section 552.130.<sup>3</sup> However, we find some of the information you have marked does not pertain to motor vehicles for purposes of section 552.130. Thus, this information, which we have marked for release, is not confidential under section 552.130 and may not be withheld on that basis.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act.<sup>4</sup> *Id.* § 552.147(a). Accordingly, the district attorney may withhold the social security number in the remaining information under section 552.147 of the Government Code.

In summary, the district attorney must withhold the information it has marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The district attorney may withhold the information it has marked under section 552.108 of the Government Code. The district attorney must withhold the information we have marked under section 552.130 of the Government Code. The district attorney may withhold the social security numbers it has marked under section 552.147 of the Government Code. The remaining information must be released.<sup>5</sup>

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<sup>2</sup>As our ruling is dispositive, we do not address your arguments under sections 552.103 and 552.108(b)(1) of the Government Code for this information.

<sup>3</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas motor vehicle information under section 552.130 of the Government Code, without the necessity of requesting a ruling from this office.

<sup>4</sup>Section 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.

<sup>5</sup>We note that as the attorney for the individual at issue, the requestor has a special right of access to some of the requested information in this instance. Gov't Code § 552.023(a) (person or person's authorized representative has a 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). Should the district attorney receive another request for these same records from a person who would not have a right of access to the requestor's private information, the district attorney should resubmit these records and request another decision. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 673 (2001).

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](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,



James McGuire  
Assistant Attorney General  
Open Records Division

JM/jb

Ref: ID# 366312

Enc. Submitted documents

c: Requestor  
(w/o enclosures)