



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 7, 2010

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

OR2010-04889

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# 380152.

The Ellis County Sheriff's Office (the "sheriff") received a request for information relating to two specified case numbers. You claim that some of the requested information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

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 must reasonably explain how and why section 552.108 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 have marked information relating to case number 09-19403 that the sheriff seeks to withhold under section 552.108. You state that the marked information is related to a pending criminal case. Based on your representations, we conclude that the sheriff may withhold the marked information under section 552.108(a)(1). *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 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). You have marked information relating to case number 09-09552 that the sheriff seeks to withhold under section 552.108(a)(2). You state that the marked information is related to a concluded criminal case that did not result in a conviction or a deferred adjudication. Based on your representations, we conclude that the sheriff may withhold the marked information under section 552.108(a)(2).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1)-(2). Because this exception protects personal privacy, the requestor has a right of access to his own motor vehicle information under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). With the exception of that information, which we have marked for release, we agree that the Texas driver’s license and motor vehicle information you have marked must be withheld under section 552.130. We have marked additional motor vehicle information that also must be withheld under this exception.<sup>1</sup>

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>2</sup> Gov’t Code § 552.147(a). We agree that the social security number you have marked may be withheld under section 552.147.

In summary: (1) the sheriff may withhold the information you have marked under section 552.108 of the Government Code; (2) except for the information we have marked for release, the sheriff must withhold the Texas driver’s license and motor vehicle information you have marked, as well as the information we have marked, under section 552.130 of the Government Code; and (3) the marked social security number may be withheld under section 552.147 of the Government Code. The rest of the submitted information must be released.

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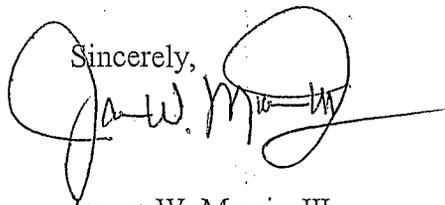
<sup>1</sup>We note that this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number and a Texas license plate number under section 552.130, without the necessity of requesting an attorney general decision.

<sup>2</sup>We note that section 552.147(b) 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.

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,

A handwritten signature in black ink, appearing to read "J.W. Morris, III", with a long horizontal flourish extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID# 380152

Enc: Submitted information

c: Requestor  
(w/o enclosures)