



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 25, 2010

Ms. Robin King
Custodian of Records
Kaufman County Sheriff's Department
P.O. Drawer 849
Kaufman, Texas 75142

OR2010-09363

Dear Ms. King:

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# 384275.

The Kaufman County Sheriff's Office (the "sheriff") received a request for information pertaining to a specified incident. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the sheriff's obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See* Gov't Code § 552.301(a), (b). You state, and the submitted information reflects, that the sheriff received the request on April 5, 2010; therefore, the sheriff's ten business day deadline for requesting a ruling was April 19, 2010. Although your request for a ruling is dated April 19, 2010, the envelope in which the sheriff's request for a ruling was submitted bears a postmark date of April 20, 2010. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we find that the sheriff failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ);

see also Open Records Decision No. 630 (1994). Generally, a compelling reason exists when third-party interests are at stake or when information is confidential under other law. *See* Open Records Decision Nos. 630 at 3, 150 (1977). You claim an exception to disclosure under section 552.108 of the Government Code; however, section 552.108 is a discretionary exception that may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, no portion of the submitted information may be withheld under section 552.108 of the Government Code. We note, however, that some of the information is subject to section 552.130 of the Government Code. As section 552.130 can provide a compelling reason for non-disclosure, we will address this exception.¹

Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). We note the requestor has a right of access to his own Texas driver's license number section 552.023 of the Government Code and the sheriff may not withhold that information from him under section 552.130. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to that person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). The sheriff, however, must withhold the Texas driver's license number of another individual, which we have marked, under section 552.130.²

In summary, the sheriff must withhold the Texas driver's license number we have marked under section 552.130 of the Government Code. The remaining submitted information must be released.³

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.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We 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 driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³We note the remaining information includes social security numbers. The requestor has a right of access to his own social security number. Gov't Code § 552.023(a). However, the sheriff may withhold the other individuals' social security numbers under section 552.147 of the Government Code. *See id.* § 55.147(b) (authorizing governmental bodies 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 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,

A handwritten signature in cursive script that reads "Tamara H. Holland".

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 384275

Enc. Submitted documents

c: Requestor
(w/o enclosures)