



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 6, 2010

Mr. W. Lee Auvenshine  
Assistant County and District Attorney  
Ellis County and District Attorney's Office  
109 South Jackson  
Waxahachie, Texas 75165

OR2010-11936

Dear Mr. Auvenshine:

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# 389977.

The Ellis County Sheriff's Office (the "sheriff") received two requests for information pertaining to a specified incident. You indicate you will release some information to the requestors. You claim some of the submitted 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 submitted information.

Section 552.108(a)(2) 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 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). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. 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 the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). You assert the submitted information pertains to a closed criminal investigation that did not result in conviction or deferred adjudication. Upon review, we

agree the sheriff may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

Next, we understand you to assert portions of the remaining information are excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to a motor vehicle operator's or driver's license issued by an agency of this state. *Id.* § 552.130(a)(1). We note that the cellular telephone numbers you have marked do not fall within the scope of this exception, and these numbers may not be withheld under section 552.130. We also note section 552.130 protects personal privacy. Accordingly, one of the requestors has a right of access to her own Texas driver's license number. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). The sheriff must withhold the remaining Texas driver's license numbers from this requestor under section 552.130. The sheriff must withhold all of the marked Texas driver's license numbers from the other requestor under section 552.130.<sup>1</sup>

The sheriff seeks to withhold some of the remaining information under section 552.147 of the Government Code. The social security number of a living person is excepted from disclosure pursuant to section 552.147 of the Government Code. Gov't Code § 552.147(b). We note that the cellular telephone numbers that you have marked do not fall within the scope of this exception, and these numbers may not be withheld under section 552.147. Section 552.147(b) does not apply to the social security number of a deceased individual. *Id.* Therefore, the sheriff may not withhold the social security number you have marked, which belongs to a deceased individual, under section 552.147 of the Government Code.

In summary, the sheriff may withhold the information you have marked pursuant to section 552.108(a)(2) of the Government Code. The sheriff must withhold the Texas driver's license numbers which do not pertain to one of the requestors from this requestor under section 552.130 of the Government Code. The sheriff must withhold all of the Texas driver's license numbers you have marked in the remaining information from the other requestor under section 552.130 of the Government Code. The remaining information must be released to the requestors.

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.

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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 under section 552.130 without the necessity of requesting an attorney general decision.

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 cursive script, appearing to read "Amy Shipp".

Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/tp

Ref: ID# 389977

Enc. Submitted documents

c: Requestor  
(w/o enclosures)