



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 26, 2010

Mr. Elton R. Mathis  
Waller County District Attorney  
846 Sixth Street, Suite #1  
Hempstead, Texas 77445

OR2010-16183

Dear Mr. Mathis:

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# 400244.

The Waller County Sheriff's Office (the "sheriff") received a request for incident report numbers 10-01316 and 10-01265. You claim 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.

You assert the requested information is excepted under section 552.108(a)(2) of the Government Code, which excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. Gov't Code § 552.108(a)(2). You state the matters at issue "have not resulted in a conviction or deferred adjudication." However, you also state "these incidents that are reflected in the incident reports are still under investigation." As noted above, section 552.108(a)(2) is applicable only if the information at issue is related to a *concluded* criminal case "that did not result in conviction or deferred adjudication." *Id.* Thus, because of these contradictory representations, we find you failed to demonstrate the information at issue relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Accordingly, the sheriff may not withhold the submitted information under subsection 552.108(a)(2).

Some of the submitted information is excepted under section 552.130 of the Government Code, which provides 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). Section 552.130 protects personal privacy; thus, the requestor has a right of access to his client's Texas motor vehicle record 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 or authorized representative asks governmental body to provide information concerning that individual). However, the sheriff must withhold the Texas motor vehicle record information of other individuals we have marked under section 552.130.<sup>1</sup> The sheriff must release the remaining information.<sup>2</sup>

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 L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tp

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<sup>1</sup>We note this office 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 opinion.

<sup>2</sup>Because the requestor has a right of access to information about his client in the submitted documents under section 552.023 of the Government Code, the sheriff must again seek a decision from this office if it receives a request for this information from a different requestor. We also note the submitted information contains the social security numbers of individuals who are not represented by the requestor. 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.

Ref: ID# 400244

Enc. Submitted documents

c: Requestor  
(w/o enclosures)