



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2010

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

OR2010-16651

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# 403611.

The Ellis County Sheriff's Office (the "sheriff") received a request for a specified police report. You claim some of the submitted information is excepted from disclosure under sections 552.103, 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)(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 claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report number 10-11213 relates to a pending criminal prosecution. Based on your representation and our review, we conclude that the release of the information you have marked would interfere with the detection, investigation, or prosecution of crime. *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). Accordingly, the sheriff may

withhold the information you have marked under section 552.108(a)(1) of the Government Code.¹

You assert portions of the remaining information are confidential pursuant to section 552.130 of the Government Code, which 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). Accordingly, the sheriff must withhold the driver's license information you have marked under section 552.130.² However, we note the cellular telephone numbers you have marked do not constitute motor vehicle record information for purposes of section 552.130, may not be withheld on that basis, and must be released.

You claim the social security number you have marked is excepted from disclosure under section 552.147 of the Government Code. This section provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. Accordingly, the sheriff may withhold the social security number you have marked pursuant to section 552.147 of the Government Code.³

In summary, the sheriff may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The sheriff must withhold the driver's license information you have marked under section 552.130 of the Government Code. The sheriff may withhold the social security number you have marked pursuant to section 552.147 of the Government Code. The remaining information must be released.⁴

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

¹As our ruling is dispositive, we need not address your remaining arguments against its disclosure.

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 a ruling from this office.

³We note 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.

⁴We note the requestor has a special right of access to some of the information being released in this instance. *See* Gov't Code § 552.023(b). Because such information may be confidential with respect to the general public, if the sheriff receives another request for this information from a person other than this requestor, it should again seek a ruling from this office. *See* Gov't Code §§ 552.301, .302

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 403611

Enc. Submitted documents

cc: Requestor
(w/o enclosures)