



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 20, 2010

Ms. Ann Montgomery  
Assistant County and District Attorney  
Ellis County  
109 South Jackson  
Waxahachie, Texas 75165

OR2010-19158

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# 403309.

The Ellis County District Attorney's Office received a request for information regarding pending criminal charges against two named individuals, as well as information pertaining to two specified incidents. You claim that portions of the requested information are excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, you state one of the submitted reports was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2010-09299 (2010). However, we note that in the previous ruling, the requestor in that instance had a right of access to certain information being released. *See* Gov't Code § 552.023 (a person has a special right of access to information about herself that would otherwise be excepted from public disclosure under laws intended to protect that person's privacy). The instant request is being made by a different requestor, who does not have this special right of access. Therefore, we find that the circumstances have changed and you may not rely on Open Records Letter No. 2010-09299 as a previous determination. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Accordingly, we will address your arguments against the disclosure of the information in this report, as well as the remaining submitted information.

Section 552.108(a)(1) provides, in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) 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 release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt* 551 S.W.2d 706 (Tex. 1977). You state that the requested records pertain to cases that are pending investigation and prosecution. Based on your representation and our review, we agree that 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) (specifying law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, you may withhold the information you have marked under section 552.108(a)(1).

Section 552.130 of the Government Code excepts from disclosure “information [that] relates to (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; [or] (2) a motor vehicle title or registration issued by an agency of this state[.]” Gov’t Code § 552.130(a). Therefore, we agree that you must withhold the Texas motor vehicle record information you have marked in the submitted information under section 552.130. We have marked additional information that must also be withheld under this section.<sup>1</sup>

Finally, you have marked social security numbers to be withheld under section 552.147. 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. Therefore, you may withhold the social security numbers in the submitted information under section 552.147.<sup>2</sup>

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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 a Texas driver’s license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>2</sup> 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.

In summary, you may withhold the information marked under section 552.108(a)(1). You must withhold the Texas motor vehicle record information marked under section 552.130. You may also withhold the social security numbers under section 552.147. The remaining information must be released.<sup>3</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,



Lauren E. Kleine  
Assistant Attorney General  
Open Records Division

LEK/eeg

Ref: ID# 403309

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup> We note that the requestor states she has been appointed to conduct a social study investigation into the individuals named in the request. A domestic relations office created under chapter 203 of the Family Code is entitled to obtain from the Department of Public Safety criminal history record information that relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203. See Gov't Code § 411.1285(a); Fam. Code § 203.001(2) (defining "domestic relations office"). As this information is being released, we need not determine the applicability of section 411.1285 to this request.