



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 30, 2011

Ms. M. Ann Montgomery
Assistant Ellis County and District Attorney
Ellis County Courts Building
109 South Jackson
Waxahachie, Texas 78165

OR2011-04360

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# 412877.

The Ellis County and District Attorney's Office (the "district attorney") received a request for basic information, including the front page, from a specified offense report regarding the requestor's client and any related arrest warrant, arrest warrant affidavit, arrest report, or booking report. You indicate you will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have submitted information other than the basic information and the front page of the specified offense report and any related arrest warrant, arrest warrant affidavit, arrest report, or booking report. This information, which we have marked, is therefore not responsive to the request. This ruling does not address the public availability of non-responsive information, and the district attorney is not required to release non-responsive information in response to this request.

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 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 the information you have marked relates to a pending investigation and prosecution and its release would hinder that prosecution. Based on this representation and our review, we conclude 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) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the district attorney may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). However, section 552.130 protects personal privacy. Thus, the requestor has a right of access to her client's Texas motor vehicle record information. *See id.* § 552.023(a) (person has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by law intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987). Thus, the district attorney may not withhold any of the remaining information under section 552.130 of the Government Code.

Section 552.147 of the Government Code states "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. We further note the requestor has a right of access to her client's social security number. *See id.* § 552.023(a). Accordingly, the district attorney may not withhold any of the remaining information under section 552.147 of the Government Code.

In summary, the district attorney may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The district attorney must release the remaining responsive information.¹

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, 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

¹We note the information being released contains confidential information to which the requestor has a right of access. *See* Gov't Code § 552.023(a). If the district attorney receives another request for this particular information from a different requestor, then the district attorney should again seek a decision from this office.

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 black ink, appearing to read "Mack T. Harrison". The signature is fluid and cursive, written over a vertical line of dots that runs down the page.

Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 412877

Enc. Submitted documents

c: Requestor
(w/o enclosures)