



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 8, 2011

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

OR2011-04869

Dear Ms. Montgomery-Moran:

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# 418453.

The Ellis County Sheriff's Office (the "sheriff") received a request for three categories of information related to a fatal accident. You state that some responsive information will be made available to the requestor. You claim that 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 information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 at 2-3 (1986). You state there is "no pending criminal case or investigation" pertaining to the information you have marked. Based on this representation and our review, we agree the sheriff may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

You seek to withhold the date of birth and the driver's license number of the deceased individual under section 552.130 of the Government Code. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license issued by an agency of this state. *See Gov't Code* § 552.130(a)(1). We note section 552.130 is not applicable to a date of birth. *See id.* We also note the purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of

privacy lapses at death, the Texas driver's license number of a deceased individual may not be withheld under section 552.130. See *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); see also Attorney General Opinion JM-229 (1984); H-917 (1976); Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). Thus, the deceased individual's driver's license number and date of birth which you have marked may not be withheld under section 552.130 of the Government Code.

You claim the social security number of the deceased individual is excepted from disclosure under section 552.147(b) of the Government Code.<sup>1</sup> Section 552.147 of the Government Code provides the social security number of a *living* individual is excepted from required public disclosure under the Act. Gov't Code § 552.147. Thus, this exception is not applicable to the social security number of a deceased individual and the sheriff may not withhold that information under this section.

Accordingly, the sheriff may withhold the information you have marked under section 552.108(a)(2) of the Government Code. The remaining submitted information must be released to the requestor.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

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<sup>1</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. Gov't Code § 552.147(b).

Ref: ID# 418453

Enc. Submitted documents

c: Requestor  
(w/o enclosures)