



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 18, 2011

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

OR2011-10176

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# 428467.

The Ellis County Sheriff's Office (the "sheriff") received a request for calls or reports from two named individuals during September, 2010. You claim that some of the requested information is excepted from disclosure under sections 552.108 and 552.130 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You seek to withhold marked information pertaining to case number 10-14163 under section 552.108(a)(1). You state the marked information is related to a pending criminal investigation and prosecution. Based on your representation and our review, we find that release of this information 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 that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the sheriff may withhold the marked information pertaining to case number 10-14163 under section 552.108(a)(1) of the Government Code.¹

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication.

You seek to withhold marked information pertaining to case number 10-14176 under section 552.108(a)(2). You state the marked information pertains to a closed case that did not conclude in a conviction or deferred adjudication. Based on your representation and our review, we find the sheriff may withhold the marked information pertaining to case number 10-14176 under section 552.108(a)(2).²

You have marked information in the remaining records that you claim is subject to section 552.130 of the Government Code. Section 552.130 provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by an agency of this state, another state, or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov’t Code § 552.130). Accordingly, the sheriff must withhold the information you have marked under section 552.130.³

In summary, the sheriff may withhold the information you have marked under sections 552.108(a)(1) and 552.108(a)(2) of the Government Code. The sheriff must withhold the Texas driver’s license numbers you have marked under section 552.130 of the Government Code. The remaining information must be released.

¹As our ruling is dispositive, we need not address your remaining claim against disclosure of this information.

²As our ruling is dispositive, we need not address your claim under section 552.108(b)(2) of the Government Code for this information.

³We 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 decision.

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 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

Ref: ID# 428467

Enc. Submitted documents

c: Requestor
(w/o enclosures)