



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 26, 2011

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

OR2011-15759

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# 438704.

Ellis County (the “county”) received a request for information pertaining to a specified incident. You claim portions of the requested information are 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.

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

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 issued by an agency of this state or another state or country. 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(a)(1)). However, section 552.130 protects personal privacy. Thus, the requestor has a right of access to her client's Texas driver's license information. *See* Gov't Code § 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 county 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 county may not withhold the requestor's client's social security number. The county, however, may withhold the social security number pertaining to another individual in the remaining information under section 552.147 of the Government Code.²

Finally, you have marked some of the remaining information under section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. However, you have not directed our attention to any law, nor are we aware of any law, under which this information is considered to be confidential for purposes of section 552.101. *See* Open Records Decision Nos. 611 at 1 (1992) (common-law privacy), 600 at 4 (1992) (constitutional privacy), 478 at 2 (1987) (statutory confidentiality). Accordingly, the county may not withhold the information you have marked under section 552.101 of the Government Code.

In summary, the county may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The county may withhold the social security

¹As our ruling is dispositive for this information, we do not address your argument under section 552.108(b)(1).

²We note 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).

number that pertains to the individual other than the requestor's client under section 552.147 of the Government Code. The county must release the remaining information.

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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ag

Ref: ID# 4387004

Enc. Submitted documents

c: Requestor
(w/o enclosures)