



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 22, 2011

Mr. John A. Peralta  
Assistant County Attorney  
Liberty County Attorney's Office  
P.O. Box 9127  
Liberty, Texas 77575

OR2011-17247

Dear Mr. Peralta:

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# 436761.

The Liberty County Sheriff's Office (the "sheriff") received a request for internal investigation numbers 11-013, 11-014, and 11-015 and a copy of a named former deputy's personnel file. You state the sheriff will release some of the responsive information, including investigation numbers 11-013 and 11-014, as well as the information submitted under tabs 1, 2, 5, 6, 13, and 16. You claim that the information submitted under tabs 3, 4, 7 through 12, 14, and 15 is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information at issue.

Section 552.108 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception 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 state the information in tabs 3, 4, 7 through 12, 14, and 15 is related to the prosecution of criminal charges arising out of an internal affairs investigation. We note section 552.108 is generally not applicable to information relating to an administrative investigation that did not result in a criminal investigation or prosecution. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). However, you explain the information at issue relates to a possible prosecution by the Liberty County District Attorney's Office. Based upon these representations and our review, we conclude that release of the information in tabs 3, 4, 7 through 12, 14, and 15 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). Accordingly, the sheriff may withhold the information at issue in tabs 3, 4, 7 through 12, 14, and 15 under section 552.108(a)(1) of the Government Code.<sup>1</sup>

We note some of the information in tabs 1 and 6 is subject to section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is excepted from public release.<sup>2</sup> 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)). The sheriff must withhold the driver's license number we have marked in tabs 1 and 6 under section 552.130.

In summary, the sheriff may withhold the information in tabs 3, 4, 7 through 12, 14, and 15 under section 552.108(a)(1) of the Government Code. The sheriff must withhold the driver's license number we have marked in tabs 1 and 6 under section 552.130 of the Government Code.<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.

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<sup>1</sup>As our ruling under section 552.108 is dispositive for this information, we need not address your argument under section 552.103.

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>3</sup>We note the information the sheriff is releasing includes social security numbers. 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).

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,

A handwritten signature in cursive script that reads "Tamara H. Holland".

Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/ag

Ref: ID# 436761

Enc. Submitted documents

c: Requestor  
(w/o enclosures)