



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2012

Mr. W. Lee Auvenshine
Assistant Ellis County & District Attorney
Ellis County & District Attorney
109 South Jackson
Waxahachie, Texas 75165

OR2012-00312

Dear Mr. Auvenshine:

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# 441627.

The Ellis County Sheriff's Office (the "sheriff") received a request for a specified incident report and related evidence. You claim that portions of the submitted information are 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) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code 552.108(a)(1). Generally, 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* Gov't Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information you have marked relates to a pending criminal investigation. Based upon this representation, we conclude section 552.108(a)(1) is applicable and 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 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 you have marked under section 552.108(a)(1) of the Government Code.

You also seek to withhold the information you have marked as protected under sections 552.130 and 552.147 of the Government Code. Section 552.130 of the Government Code

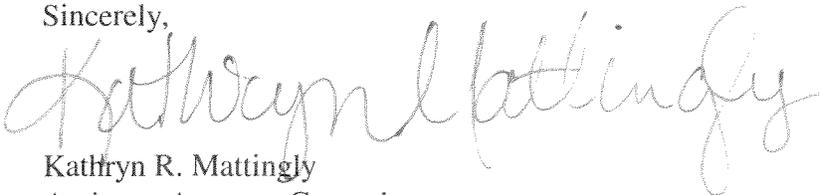
provides that information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is excepted from public release. Act of May 24, 2011, 82d Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(1)). Section 552.147 provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147(a). We note that sections 552.130 and 552.147 protect personal privacy. In this instance, the requestor is the authorized representative of one of the individuals in the offense report and therefore has a right of access to his Texas driver's license number and social security number under section 552.023 of the Government Code. *See* Gov't Code § 552.023 (person or person's authorized representative 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 laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987). Therefore, the sheriff may not withhold the information you have marked on page one of the submitted offense report. The sheriff, however, must withhold the Texas driver's license numbers that belong to other individuals, which you have marked on page two of the submitted offense report, under section 552.130 of the Government Code.

In summary, the sheriff may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The sheriff must withhold the driver's license numbers you have marked on page two of the submitted offense report under section 552.130 of the Government Code. The remaining information must be released.

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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/sdk

Ref: ID# 441627

Enc. Submitted documents

c: Requestor
(w/o enclosures)