



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 30, 2012

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

OR2012-01503

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# 443736.

The Ellis County Sheriff's Office (the "sheriff") received a request for information pertaining to a specified report. You state the sheriff has released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.108, 552.132, and 552.137 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. *See* 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A). You state the information you have marked pertains to a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on your representations and our review, we conclude that the sheriff may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

Section 552.132 of the Government Code provides, in relevant part, the following:

(b) The following information held by the crime victim's compensation division of the attorney general's office is confidential:

- (1) the name, social security number, address, or telephone number of a crime victim or claimant; or
- (2) any other information the disclosure of which would identify or tend to identify the crime victim or claimant.

...

(d) An employee of a governmental body who is also a victim under Subchapter B, Chapter 56, Code of Criminal Procedure, regardless of whether the employee has filed an application for compensation under that subchapter, may elect whether to allow public access to information held by the attorney general's office or other governmental body that would identify or tend to identify the victim, including a photograph or other visual representation of the victim.

Id. § 552.132(b), (d). The remaining information is held by the sheriff, not the crime victim's compensation division of this office; therefore, section 552.132(b) is not applicable to this information. Additionally, you provide no representation the victim is an employee of the sheriff who elected in accordance with section 552.132(d). We, therefore, conclude the sheriff may not withhold any portion of the remaining information under section 552.132 of the Government Code.

The sheriff asserts the remaining information contains an e-mail address subject to section 552.137 of the Government Code. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). However, we note the requestor has a right of access to her own e-mail address under section 552.137(b). *See id.* § 552.137(b) (e-mail address of member of the public may be released with that individual's consent). Accordingly, the sheriff may not withhold the requestor's e-mail address in the remaining information under section 552.137 of the Government Code.¹

¹We note Open Records Decision No. 684 (2009) authorizes all governmental bodies to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137, without the necessity of requesting an attorney general decision. Thus, if the sheriff receives another request for this same information from a person who would not have a right of access to the present requestor's e-mail address, Open Records Decision No. 684 authorizes the sheriff to redact her e-mail address without the necessity of requesting another decision.

In summary, the sheriff may withhold the information you have marked under section 552.108(a)(2) of the Government Code. The sheriff must release the remaining information.²

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/agn

²We note the information being released includes the requestor's driver's license number which the sheriff would be required to withhold from the general public under sections 552.130(a)(1) of the Government Code. Because section 552.130 protects personal privacy, the requestor has a right of access to her own driver's license number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) ("A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). We note section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a)(1) without the necessity of requesting a decision under the Act. *See* Gov't Code § 552.130(c). Thus, if the sheriff receives another request for this same information from a person who would not have a right of access to the present requestor's driver's license number, section 552.130(c) authorizes the sheriff to redact her driver's license number without the necessity of requesting another decision. We also note the remaining information contains a social security number. 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 an attorney general decision under the Act. *See* Gov't Code § 552.147(b).

Ref: ID# 443736

Enc. Submitted documents

c: Requestor
(w/o enclosures)