



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 11, 2012

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

OR2012-07070

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# 453709.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You claim 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 claimed exceptions and reviewed the submitted information.

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). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue pertains to a closed criminal investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we

conclude the sheriff's office may withhold the information you have marked under section 552.108(a)(2).¹

Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license, title, or registration issued by an agency of this state or another state or country. *Id.* § 552.130(a)(1)-(2). You have marked driver's license numbers the sheriff's office seeks to withhold under section 552.130. However, section 552.130 protects privacy, which is a personal right that lapses at death. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 (1981). Accordingly, the sheriff's office may not withhold the driver's license number of the deceased individual, which we have marked for release. However, the sheriff's office must withhold the remaining information it has marked under section 552.130.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). Therefore, the sheriff's office may not withhold the deceased individual's social security number, which we have marked for release, under section 552.147. However, the sheriff's office may withhold the remaining social security numbers you have marked under section 552.147.²

In summary, the sheriff's office may withhold the information you have marked under section 552.108(a)(2) of the Government Code. With the exception of the information we have marked for release, the sheriff's office must withhold the information you have marked under section 552.130 of the Government Code and may withhold the information you have marked under section 552.147 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,

¹Because our ruling as to this information is dispositive, we do not address your remaining argument against its disclosure.

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 an attorney general decision under the Act. *See Gov't Code* § 552.147(b).

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 black ink that reads "Misty Haberer Barham". The signature is written in a cursive, flowing style.

Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/bhf

Ref: ID# 453709

Enc. Submitted documents

c: Requestor
(w/o enclosures)