



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 5, 2012

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

OR2012-08593

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# 460775.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for a report of a specified incident involving a named individual. You claim the requested information is 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 information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. Section 58.007 of the Family Code provides in part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

- (1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and
- (2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j); *see id.* § 51.03(a)-(b) (defining "delinquent conduct" and "conduct indicating need for supervision" for purposes of Fam. Code tit. 3). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). Section 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. Although the submitted information involves a juvenile suspect, so as to be generally confidential under section 58.007(c), the requestor is the juvenile's parent. As such, the requestor has a right to inspect juvenile law enforcement records concerning his child pursuant to section 58.007(e) of the Family Code. *See id.* § 58.007(e). Section 58.007(j)(2) provides, however, that information subject to any other exception to disclosure under the Act or other law must be

redacted. *See id.* § 58.007(j)(2). Accordingly, we will address your claims for portions of the submitted information under sections 552.108, 552.130, and 552.147 of the Government Code.

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 must reasonably explain how and why section 552.108(a)(1) 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 have marked the information the sheriff’s office seeks to withhold under section 552.108. You state the marked information is related to a pending criminal investigation. Based on your representation, we conclude the sheriff’s office may withhold the marked information under section 552.108(a)(1). *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.*, 536 S.W.2d 559 (Tex. 1976).

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130(a)(1). We agree the sheriff’s office must withhold the driver’s license numbers you have marked under section 552.130.

Section 552.147 of the Government Code provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). We agree the sheriff’s office may withhold the social security numbers you have marked under section 552.147.¹

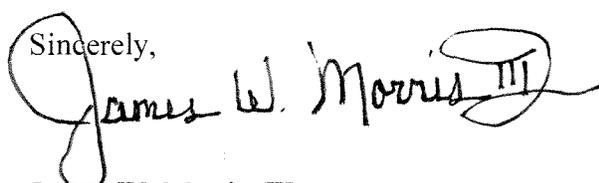
In summary, the sheriff’s office (1) may withhold the marked information related to the pending investigation under section 552.108(a)(1) of the Government Code; (2) must withhold the marked driver’s license numbers under section 552.130 of the Government Code; and (3) may withhold the marked social security numbers under section 552.147 of the Government Code. The rest of the submitted information must be released.²

¹We note that 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.

²Because the requestor has a right of access to information the sheriff’s office would be required to withhold from the general public, the sheriff’s office must request another decision if it receives another request for this same information from a different requestor. *See* Gov’t Code §§ 552.301(a), .302.

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,


James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bs

Ref: ID# 460775

Enc: Submitted information

c: Requestor
(w/o enclosures)