



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 24, 2013

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

OR2013-06745

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# 485714.

The Ellis County Sheriff's Office (the "sheriff's office") received two requests from the same requestor for all calls to a specified address during a specified time period and information pertaining to a specified incident. You indicate the sheriff's office will redact social security numbers under section 552.147(b) of the Government Code.¹ You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. Section 552.101 encompasses information made confidential by other statutes, such as section 771.061 of the Health and Safety Code, which makes confidential "[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service" and "[i]nformation that

¹Section 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. See Gov't Code § 552.147(b).

is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service[.]” Health & Safety Code § 771.061(a). You inform us the sheriff’s office is part of a Regional Planning Commission as set up through the North Central Texas Council of Governments (the “council”). You explain the council has developed a regional plan for the establishment and operation of a 9-1-1 communications service throughout the region under chapter 771 of the Health and Safety Code. You indicate the information you have marked consists of the caller’s identity, originating address, and telephone number that were required to be provided, and were provided, to the sheriff’s office by its telecommunications service provider. Therefore, based upon your representations, we agree the information you marked is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See also* Open Records Decision No. 661 at 1-2 (1999).

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* 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 you have marked relates to a closed case that did not result in conviction or deferred adjudication. Based on these representations and our review, we agree the sheriff’s office may withhold the information you have marked under section 552.108(a)(2) of the Government Code.²

In summary, the sheriff’s office must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code. The sheriff’s office may withhold the information you have marked under section 552.108(a)(2) 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

²As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

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 "Jennifer Luttrall". The signature is written in black ink and is positioned above the typed name.

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 485714

Enc. Submitted documents

c: Requestor
(w/o enclosures)