



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 17, 2013

Mr. Bobby Duvall  
Chief Deputy  
Brown County Sheriff's Office  
1050 West Commerce  
Brownwood, Texas 76801

OR2013-21943

Dear Mr. Duvall:

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# 509722.

The Brown County Sheriff's Office (the "sheriff's office") received a request for all information related to the arrests of two specified individuals at a specified place and time. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the sheriff's office's procedural obligations under section 552.301 of the Government Code. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply to the requested information within ten business days after receiving the request. Gov't Code § 552.301(b). The sheriff's office received the request at issue on September 30, 2013. Therefore, the deadline for requesting a decision from this office was October 14, 2013. However, the postmark date on the envelope containing your request for a ruling is October 15, 2013. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United

---

<sup>1</sup>Although you do not raise section 552.108 of the Government Code in your brief, we understand you to raise this exception based on the substance of your arguments.

States mail, common or contract carrier, or interagency mail). Consequently, we find the sheriff's office failed to comply with section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). A compelling reason generally exists when information is confidential by law or third-party interests are at stake. *See* Open Records Decision No. 630 at 3. Although you raise section 552.108 of the Government Code as an exception, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Gov't Code § 552.007; Open Records Decision Nos. 665 at 2 n. 5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Thus, the sheriff's office may not withhold the information at issue under section 552.108. However, we note portions of the information at issue are subject to section 552.130 of the Government Code, which can provide a compelling reason for non-disclosure. Accordingly, we will address the applicability of section 552.130 to the submitted information.<sup>2</sup>

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1)-(2). Upon review, we find portions of the submitted information consist of motor vehicle record information. Accordingly, the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.<sup>3</sup> The sheriff's office must release the remaining information.<sup>4</sup>

---

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>3</sup>We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

<sup>4</sup>We note the information being released 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 from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Miriam A. Khalifa  
Assistant Attorney General  
Open Records Division

MAK/eb

Ref: ID# 509722

Enc. Submitted documents

c: Requestor  
(w/o enclosures)