



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2013

Mr. Daniel Plake
Assistant County Attorney
Open Records Division
Montgomery County
207 West Phillips, Suite 100
Conroe, Texas 77301

OR2013-21989

Dear Mr. Plake:

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# 508933 (ORR# 2013-5528).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information related to a specified incident. You state the sheriff's office will withhold social security numbers under section 552.147 of the Government Code.¹ You also state the sheriff's office has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the obligations of the sheriff's office under the Act. Section 552.301 describes the procedural obligations placed on a governmental body 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 under the Act. *See* Gov't Code § 552.147(b).

²Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302. We note section 552.101 does not encompass other exceptions under the Act.

receives a written request for information it wishes to withhold. *See* Gov't Code § 552.301(b). Pursuant to section 552.301(b) of the Government Code, the governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request. *See id.* You inform us the sheriff's office received the request for information on September 23, 2013. Therefore, your ten-business-day deadline fell on October 7, 2013. However, your request for a ruling from this office was meter-marked October 9, 2013. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we find the sheriff's office failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 of the Government Code results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *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); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977).

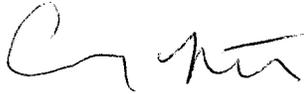
Although the sheriff's office seeks to withhold the submitted information under section 552.108 of the Government Code, section 552.108 is a discretionary exception to disclosure that protects a governmental body's interest and may be waived. *See Simmons*, 166 S. W.3d at 350 (section 552.108 is not compelling reason to withhold information under section 552.302); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). Accordingly, the sheriff's office may not withhold any of the submitted information under section 552.108. However, section 552.130 of the Government Code can provide a compelling reason for non-disclosure under section 552.302. Therefore, we will address the applicability of section 552.130 to the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Upon review, we find the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The sheriff's office must release the remaining submitted information.

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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 508933

Enc. Submitted documents

c: Requestor
(w/o enclosures)