



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

March 20, 2009

Ms. M. Ann Montgomery
Assistant Ellis County and District Attorney
Ellis County and District Attorney's Office
1201 North Highway 77 Suite 104
Waxahachie, Texas 75165-7832

OR2009-03641

Dear Ms. Montgomery:

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# 342195.

The Ellis County Sheriff's Office (the "sheriff") received a request for information involving the requestor. You indicate that some of the requested information either has been or will be released. You claim that other responsive information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.108 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 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 state that some of the submitted information, which you have marked, is related to a pending prosecution. Based on your representations, we conclude that the sheriff may withhold that 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), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.108 also 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). You state that some of the remaining information, which you have marked, is related to concluded investigations that did not result in the filing of any criminal charges. Based on your representations, we conclude that the sheriff may withhold that information under section 552.108(a)(2).

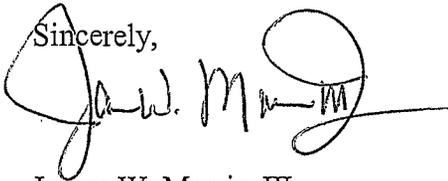
Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. *See id.* § 552.130(a)(1). We agree that the Texas driver’s license numbers that you have marked in the remaining information must be withheld under section 552.130.

In summary: (1) the department may withhold the marked information that is related to the pending prosecution under section 552.108(a)(1) of the Government Code; (2) the sheriff may withhold the marked information that is related to the concluded investigations under section 552.108(a)(2); and (3) the marked Texas driver’s license information must be withheld under section 552.130 of the Government Code. The rest of the submitted information must be released.¹ As we are able to make these determinations, we need not address the other exception you claim.

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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "M".

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

JWM/cc

¹We note that the sheriff would ordinarily be required to withhold some of the remaining information to protect the requestor’s privacy. The requestor has a special right of access, however, to his own private information. *See* Gov’t Code § 552.023. Should the sheriff receive another request for these same records from a person who would not have a right of access to the requestor’s private information, the sheriff should resubmit these records and request another decision. *See id.* §§ 552.301(a), .302.

Ref: ID# 342195

Enc: Submitted documents

c: Requestor
(w/o enclosures)