



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 2, 2009

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

OR2009-07517

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# 349523.

The Ellis County Sheriff's Office (the "sheriff") received a request for incident reports involving the requestor. You state that some responsive information has been released to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code excepts from public 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception 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 that the sheriff seeks to withhold under section 552.108(a)(1). You state that the marked information relates to a pending criminal case. Based on your representation, we conclude that the sheriff 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), *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 have marked the information that the sheriff seeks to withhold under section 552.108(a)(2). You indicate that the marked information relates to a concluded case that did not result in a conviction or deferred adjudication. Based on your representation, we conclude that the sheriff may withhold the marked information under section 552.108(a)(2).

You also claim that section 552.130 of the Government Code is applicable to some of the remaining information. Section 552.130 excepts from public disclosure information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1). We agree that the sheriff must withhold the information you have marked under section 552.130.

In summary: (1) the sheriff may withhold the information that you have marked under section 552.108(a)(1) and section 552.108(a)(2) of the Government Code; and (2) the sheriff must withhold the information marked under section 552.130 of the Government Code. The rest of the submitted information must be released.<sup>1</sup>

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](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

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<sup>1</sup>We note the information being released includes the requestor’s Texas driver’s license information, which would ordinarily be withheld under section 552.130 of the Government Code. However, because this information belongs to the requestor, it may not be withheld in this instance. *See* Gov’t Code § 552.023(a) (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself). If the sheriff receives another request for this particular information from a different requestor, then the sheriff should again seek a decision from this office.

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 cursive script, appearing to read "Amy Shipp".

Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/rl

Ref: ID# 349523

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)