



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 5, 2009

Mr. Roy L. Cordes, Jr.  
Fort Bend County Attorney  
301 Jackson St., Ste 728  
Richmond, Texas 77469

OR2009-13933

Dear Mr. Cordes:

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# 357241.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for a specified incident report. You state you have released portions of the responsive information. You claim the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. 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. You explain the sheriff has closed the case to which the submitted information pertains, and the case has been referred to the Fort Bend County Justice of the Peace on Class C charges. However, you do not inform us of the disposition of those charges. Further, we note the shortest possible statute of limitations for an assault is two years, which has not run. *See* Code Crim. Proc. art. 12.02 (complaint or information on Class C misdemeanor may be presented within two years from date of commission of offense, and not afterward). Thus, you have failed to demonstrate this investigation had concluded in a final result other than conviction or deferred adjudication on the date the sheriff received the

request. Therefore, the sheriff may not withhold any portion of the submitted information under section 552.108(a)(2) of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>1</sup> *Id.* § 552.101. Section 552.101 encompasses information made confidential by statutes, such as section 411.192 of the Government Code. Section 411.192 governs the release of all information maintained by DPS concerning the licensure of individuals to carry a concealed handgun, and provides as follows:

(a) [DPS] shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, and zip code. Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552.

(b) An applicant or license holder may be furnished a copy of disclosable records regarding the applicant or license holder on request and the payment of a reasonable fee.

...

(d) This section does not prohibit [DPS] from making public and distributing to the public at no cost lists of individuals who are certified as qualified handgun instructors by the department.

Gov't Code § 411.192(a), (b), (d). The sheriff received some of the submitted information, which we have marked, from DPS pursuant to section 411.192. In this instance, the requestor is not a criminal justice agency, nor is the requestor a license holder whose information is at issue. Further, we note that section 411.193 is not applicable in this instance. *See id.* § 411.193 (making a statistical report including the number of licenses issued, denied, revoked, or suspended by the department during the preceding month available to the public). Therefore, the sheriff must withhold the information we have marked pursuant to section 552.101 in conjunction with section 411.192 of the Government Code.

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<sup>1</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. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1)-(2). We note, however, this exception protects personal privacy. Thus, because this requestor has a right of access to her own private information under section 552.023 of the Government Code, the sheriff may not withhold the requestor's Texas motor vehicle record information under section 552.130. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). However, the Texas motor vehicle record information not belonging to the requestor, which we have marked, must be withheld under section 552.130 of the Government Code. The submitted audio recordings and photographs also contain Texas driver's license numbers and license plate numbers not belonging to the requestor, which must also be withheld under section 552.130 of the Government Code.

You also raise section 552.147 of the Government Code, which provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act.<sup>2</sup> The sheriff may withhold the social security numbers we have marked under section 552.147 of the Government Code.

In summary, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.192 of the Government Code. The sheriff must withhold the Texas motor vehicle record information not belonging to the requestor pursuant to section 552.130 of the Government Code. The sheriff may withhold the social security numbers we have marked under section 552.147 of the Government Code. The remaining submitted information must be released.<sup>3</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,

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<sup>2</sup>We note section 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.

<sup>3</sup>We note the requestor has a special right of access to some of the information being released in this instance. Gov't Code § 552.023 (person or person's authorized representative has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). Because such information may be confidential with respect to the general public, if the sheriff receives another request for this information from a different requestor, the sheriff must again seek a ruling from this office.

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, toll free, at (888) 672-6787.

Sincerely,



Karen E. Stack  
Assistant Attorney General  
Open Records Division

KES/eb

Ref: ID# 357241

Enc. Submitted documents

c: Requestor  
(w/o enclosures)