



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 6, 2009

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

OR2009-14026

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# 361890.

The Ellis County Sheriff's Office (the "sheriff") received a request for information pertaining to three specified cases. You state you will release some of the information to the requestor. You claim the remaining requested 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 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 concluded cases 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).

Next, you claim some of the remaining information is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). Accordingly, the Texas driver’s license number you have marked in the remaining information must be withheld under section 552.130 of the Government Code.

You also seek to withhold the marked social security number under 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. The sheriff may withhold the social security number you have marked under section 552.147 of the Government Code.¹

In summary, 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. The sheriff must withhold the Texas driver’s license number you have marked in under section 552.130 of the Government Code. The sheriff may withhold the social security number you have marked under section 552.147 of the Government Code. The remaining information must be released.

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

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.

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,

A handwritten signature in black ink, appearing to read "Amy Shipp". The signature is fluid and cursive, with the first name "Amy" and the last name "Shipp" clearly distinguishable.

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

ALS/eeg

Ref: ID# 361890

Enc. Submitted documents

cc: Requestor
(w/o enclosures)