



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 21, 2009

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

OR2009-18069

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# 369941.

The Ellis County Sheriff's Office (the "sheriff") received a request for information pertaining to case number 09-14955. You indicate you will release some 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(a)(2) 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 . . . 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 state the marked information relates to a concluded case that did not result in a conviction or deferred adjudication. Based on your representation, we conclude the sheriff may withhold the marked information under section 552.108(a)(2) of the Government Code.

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). You seek to withhold Texas driver's license number under section 552.130, which protects privacy. Privacy is a personal right that lapses at death. See *Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145 (N.D. Tex. 1979); Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 (1981). Therefore, the deceased

individual's Texas driver's license number, which we have marked for release, may not be withheld under section 552.130. However, the sheriff must withhold the remaining Texas driver's license numbers you have marked under section 552.130.¹

Next, you have marked a social security number in the remaining information that you seek to withhold under Section 552.147 of the Government Code. Section 552.147(b) 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. Gov't Code § 552.147. However, we note the social security number you have marked pertains to a deceased individual. By its terms, section 552.147 is not applicable to the social security number of a deceased individual. Therefore, the sheriff may not withhold the information at issue under section 552.147.

In summary, the sheriff may withhold the information you have marked pursuant to section 552.108(a)(2) of the Government Code. Except for the information we have marked for release, the sheriff must withhold the Texas driver's license numbers you have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.

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

Sincerely,



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

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¹We note this office recently issued Open Record Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 369941

Enc. Submitted documents

cc: Requestor
(w/o enclosures)