



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 4, 2015

Mr. Vance Hinds
Assistant Ellis County and District Attorney
Ellis County and District Attorney
109 South Jackson
Waxahachie, Texas 75165

OR2015-04248

Dear Mr. Hinds:

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# 555341.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for the incident report, scene photos, the suicide note, and any witness statements related to a specified incident. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.1085, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(b)(2) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if . . . the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication." Gov't Code § 552.108(b)(2). Subsection 552.108(b)(2) protects internal law enforcement and prosecution records that relate to a concluded investigation or prosecution that did not result in a conviction or deferred adjudication. A governmental body claiming an exception under section 552.108 must reasonably explain how and why the exception it claims is applicable to the information the governmental body seeks to withhold. *Id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt* 551 S.W.2d 706 (Tex. 1977). You state the submitted information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, the sheriff's office may withhold the information you marked under section 552.108(b)(2).¹

¹As our ruling is dispositive, we do not address your other arguments against disclosure of this information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. See Gov't Code § 552.130(a). We note the purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, motor vehicle record information that pertains solely to deceased individuals may not be withheld under section 552.130. See *Moore v. Charles B. Pierce Film Enters.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref'd n.r.e.); see also Attorney General Opinions JM-229 (1984) (“the right of privacy lapses upon death”), H-917 (1976) (“We are . . . of the opinion that the Texas courts would follow the almost uniform rule of other jurisdictions that the right of privacy lapses upon death.”); Open Records Decision No. 272 at 1 (1981) (privacy rights lapse upon death). We note some of the driver's license information pertains to a deceased individual. Accordingly, the sheriff's office may not withhold the deceased individual's driver's license information under section 552.130 of the Government Code. However, the sheriff's office must withhold the remaining motor vehicle record information, which we have marked, under section 552.130.

To conclude, the sheriff's office may withhold the information you marked under section 552.108(b)(2). The sheriff's office must withhold the information we have marked under section 552.130 of the Government Code. The sheriff's office must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

KB-R/akg

Ref: ID# 555341

Enc. Submitted documents

c: Requestor
(w/o enclosures)