



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 1, 2015

Sergeant Rocky Bright  
Custodian of Records  
County of Ector  
Ector County Sheriff's Office  
P.O. Box 2066  
Odessa, Texas 79760

OR2015-13171

Dear Sergeant Bright:

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# 569888.

The Ector County Sheriff's Office (the "sheriff's office") received a request for all records pertaining to a specified incident. You assert the sheriff's office need not comply with this request pursuant to section 552.028 of the Government Code. We have considered your argument and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.028 of the Government Code provides, in relevant part:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under [the Act].

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028(a)-(b). You assert the sheriff's office is not required to release information to the requestor pursuant to section 552.028 of the Government Code because the requestor is the agent of an incarcerated individual. You state the requestor is a case worker, and she is not acting as an attorney for the incarcerated individual. However, upon review, we find you have failed to demonstrate the requestor is requesting information on behalf of an incarcerated individual. Therefore, we conclude section 552.028 of the Government Code does not permit the sheriff's office to decline to comply with this request.

We note you have redacted some of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue or has statutory authorization to withhold the information without requesting a decision under the Act. *See id.* § 552.301(a), (e)(1)(D). You do not assert, nor does our review of our records indicate, the sheriff's office is authorized to withhold this information without first seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000) (previous determinations). Therefore, this type of information must be submitted in a manner that enables this office to determine whether it falls within the scope of an exception to disclosure. However, because we can discern the nature of the redacted information, being deprived of the information does not inhibit our ability to make a ruling. Nonetheless, in the future, the sheriff's office must not redact information from the information it submits to this office unless it is authorized to do so by statute or the information is the subject of a previous determination under section 552.301 of the Government Code. Failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See Gov't Code* § 552.302.

We note some of the submitted information is subject to section 552.130 of the Government Code.<sup>2</sup> Section 552.130 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 id.*

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<sup>2</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).

§ 552.130(a). Accordingly, the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. As you raise no exceptions to disclosure, 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](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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/cbz

Ref: ID# 569888

Enc. Submitted documents

c: Requestor  
(w/o enclosures)