



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 23, 2015

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

OR2015-15062

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# 572681.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for a specified incident report involving two named individuals. You claim the submitted information is excepted from disclosure under sections 552.108 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 did not result in conviction or deferred adjudication. *See* 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. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information relates to a closed criminal case that did not result in conviction or deferred adjudication. Based on your representations and our review, we agree section 552.108(a)(2) is applicable to the submitted information. Thus, the sheriff's office may generally withhold the information you have marked under section 552.108(a)(2).

However, we note the requestor states she is conducting a court-ordered social study. Accordingly, the requestor may have a right of access to portions of the submitted information pursuant to section 411.1285 of the Government Code. Section 411.1285(a) of the Government Code provides, in part, that “[a] domestic relations office created under Chapter 203, Family Code, is entitled to obtain from the [Texas Department of Public Safety (“DPS”)] criminal history record information [(“CHRI”)] that relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203, Family Code.”¹ See Gov’t Code § 411.1285(a); see also Fam. Code ch. 203 (governing administration of domestic relations offices). In addition, section 411.087(a) of the Government Code provides, in pertinent part:

(a) [a] person, agency, department, political subdivision, or other entity that is authorized by this subchapter to obtain from the [DPS CHRI] maintained by the [DPS] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

Gov’t Code § 411.087(a)(2). We note CHRI is defined as “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” See *id.* § 411.082(2). However, a domestic relations office may only receive CHRI if the information relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203 of the Family Code. See *id.* § 411.1285(a); see also Open Records Decision No. 655 (1997) (discussing limitations on release of CHRI).

As noted above, the requestor states she is conducting a court-ordered social study regarding the individuals named in the request. See Fam. Code § 107.051(b) (court ordered social study may be performed by domestic relations office). Therefore, if the sheriff’s office determines the submitted information relates to a person who is a party to a proceeding in which services are being provided pursuant to chapter 203 of the Family Code, then, pursuant to section 411.1285(a), the sheriff’s office must make available to the requestor information pertaining to that person that shows identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions, and may withhold the remaining marked information under section 552.108(a)(2) of the Government Code. See Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under

¹A “domestic relations office” is defined as “a county office that serves families, county departments, and courts to ensure effective implementation of this title.” Fam. Code § 203.001(2).

the Act). However, if the sheriff's office determines the submitted information does not relate to a person who is a party to a proceeding in which services are being provided pursuant to chapter 203 of the Family Code, then the sheriff's office may withhold the marked information under section 552.108(a)(2) of the Government Code.

Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. Gov't Code § 552.147. Upon review, we find the sheriff's office may withhold the social security numbers it has marked under section 552.147 of the Government Code.

In summary, if the sheriff's office determines the submitted information relates to a person who is a party to a proceeding in which services are being provided pursuant to chapter 203 of the Family Code, then, pursuant to section 411.1285(a), the sheriff's office must make available to the requestor any CHRI of a party to the proceeding, and may withhold the remaining information you have marked under section 552.108(a)(2) of the Government Code. However, if the sheriff's office determines the submitted information does not relate to a person who is a party to a proceeding in which services are being provided pursuant to chapter 203 of the Family Code, then the sheriff's office may withhold the marked information under section 552.108(a)(2) of the Government Code. The sheriff's office may withhold the social security numbers you have marked under section 552.147 of the Government Code.

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/dls

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Enc. Submitted documents

c: Requestor
(w/o enclosures)