



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 21, 2015

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

OR2015-19694

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# 585893.

The Ellis County and District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you have marked relates to a pending criminal investigation. Based upon this representation and our review, we find release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per*

*curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the district attorney's office may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987).

We note the requestor has a special right of access under section 552.023 of the Government Code to information that would otherwise be withheld to protect his privacy. *See* Gov't Code § 552.023(b) ("person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests"). Thus, none of the information at issue may be withheld from this requestor under section 552.101 of the Government Code on the basis of common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See* Gov't Code § 552.130(a)(1)-(2). Section 552.130 is designed to protect the privacy of individuals. Thus, pursuant to section 552.023 of the Government Code, this requestor has a right of access to his own motor vehicle information, and the district attorney's office may not withhold the motor vehicle record information at issue under section 552.130 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4.

In summary, the district attorney's office may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The remaining information must be released.<sup>1</sup>

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<sup>1</sup>We note the information being released in this instance includes information that is confidential with respect to the general public. *See* Gov't Code § 552.023(a), ORD 481 at 4. Therefore, if the district attorney's office receives another request for this information from a different requestor, the district attorney's office must again seek a ruling from this office.

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,

A handwritten signature in cursive script that reads "Jennifer Luttrall". The signature is written in black ink and is positioned above the typed name.

Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/akg

Ref: ID# 585893

Enc. Submitted documents

c: Requestor  
(w/o enclosures)