



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

December 4, 2019

Mr. Robert Schell  
Assistant Ellis County and District Attorney  
Ellis County  
109 South Jackson  
Waxahachie, Texas 75165

OR2019-34103

Dear Mr. Schell:

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# 800046.

The Ellis County and District Attorney's Office (the "county") received a request for information related to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we marked, is not responsive to this request because it does not relate to the specified incident. This ruling does not address the public availability of non-responsive information and it need not be released in response to this request.

Section 552.108 of the Government Code provides, in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) 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[.]

(b) An 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 is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution; [or]

(2) 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(a)(1)-(2), (b)(1)-(2). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution, while section 552.108(b)(1) encompasses internal law enforcement and prosecution records the release of which would interfere with law enforcement efforts and prosecution in general. In contrast, a governmental body claiming section 552.108(a)(2) or section 552.108(b)(2) must demonstrate the information at issue 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 claim sections 552.108(a)(1) and 552.108(b)(1) of the Government Code for the information at issue, and state this information pertains to a pending criminal investigation that has not resulted in conviction or deferred adjudication. However, you also claim sections 552.108(a)(2) and 552.108(b)(2) of the Government Code for this information and state it relates to an investigation that did not result in a conviction or deferred adjudication. Based on these representations, we are unable to determine if the information at issue relates to an ongoing criminal case or a closed case that did not result in conviction or deferred adjudication. Thus, we find you have failed to demonstrate the applicability of section 552.108(a)(1), section 552.108(a)(2), section 552.108(b)(1), or section 552.108(b)(2) to the information at issue. Therefore, the county may not withhold the responsive information under section 552.108 of the Government Code.

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. *Id.* § 552.130(a). We note, however, because section 552.130 of the Government Code is designed to protect the privacy of individuals, the requestor has a right of access to her own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (“[a] 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"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). Accordingly, the county may not withhold the information you have marked under section 552.130 of the Government Code if the vehicle in question belongs to the requestor. Thus, to the extent the requestor is the owner of the vehicle in question, she has a right of access to the information at issue under section 552.023 of the Government Code and it may not be withheld from her under section 552.130 of the Government Code. However, to the extent that the requestor does not own the vehicle in question, the county must withhold the marked motor vehicle information under section 552.130 of the Government Code. As you raise no further exceptions to disclosure, the county must release the remaining responsive 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/eb

Ref: ID# 800046.

Enc. Submitted documents

c: Requestor  
(w/o enclosures)