



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 15, 2007

Ms. S. McClellan  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2007-13451

Dear Ms. McClellan:

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# 295673.

The Dallas Police Department (the "department") received a request for information relating to a specified service number. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

We initially note that some of the submitted information is the subject of a ruling under section 552.108 in Open Records Letter No. 2007-12686 (2007). You do not indicate that there has been any change in the law, facts, and circumstances on which the previous ruling is based. Therefore, in responding to the present request for information, the department must conform to our ruling under section 552.108 of the Government Code in Open Records Letter No. 2007-12686.<sup>1</sup> See Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

We note that sections 552.101 and 552.130 of the Government Code are applicable to some of the remaining information.<sup>2</sup> Section 552.101 excepts from disclosure "information

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<sup>1</sup>Because our previous ruling under section 552.108 constitutes a previous determination under section 552.301 of the Government Code, we do not address your arguments against disclosure.

<sup>2</sup>Unlike other exceptions to disclosure under the Act, this office will raise sections 552.101 and 552.130 on behalf of a governmental body, as these exceptions are mandatory and may not be waived. See Gov't Code §§ 552.007, .352; Open Records Decision Nos. 674 at 3 n.4 (2001) (mandatory

considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses the doctrine of common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *See id.* at 681-82. A compilation of an individual’s criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual’s privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one’s criminal history). Furthermore, a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. We have marked information that the department must withhold under section 552.101 in conjunction with common-law privacy.

Section 552.130 excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state. *See Gov’t Code § 552.130(a)(1)-(2)*. We have marked Texas driver’s license and motor vehicle information that the department must withhold under section 552.130. We note that this exception is not applicable to out-of-state driver’s license and motor vehicle information.

In summary: (1) in responding to the present request for information, the department must conform to our ruling under section 552.108 of the Government Code in Open Records Letter No. 2007-12686; (2) the department must withhold the information that we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; and (3) the marked Texas driver’s license and motor vehicle information must be withheld under section 552.130 of the Government Code.<sup>3</sup> The rest of the submitted information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited

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exceptions), 325 at 2 (1982) (attorney general will raise statutory predecessor to Gov’t Code § 552.101).

<sup>3</sup>We note that the submitted information contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

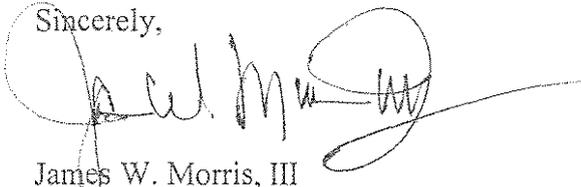
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III", with a long horizontal flourish extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ma

Ref: ID# 295673

Enc: Submitted documents

c: Ms. Marcia Routt  
Tailored Adjustment Services  
1304 Walnut Hill Lane Suite 100  
Irving, Texas 75038  
(w/o enclosures)