



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 3, 2009

Ms. M. Ann Montgomery  
Assistant Ellis County and District Attorney  
1201 North Highway 77 Suite 104  
Waxahachie, Texas 75165-7832

OR2009-01363

Dear Ms. Montgomery:

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# 337804.

The Waxahachie Police Department (the "department") received a request for information relating to an accident. You inform us that some of the requested information has been released. You claim that other responsive information is excepted from disclosure under sections 552.103, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.108 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that release of the marked portions of the submitted documents and the information stored on the submitted CD's would interfere with a pending criminal prosecution. Based on your representations, we conclude that section 552.108 is generally applicable to that information. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. – Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. The information that you have marked in the submitted police report relating to the property involved constitutes basic information for the purposes of *Houston Chronicle*. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, basic information relating to the property involved must be released under section 552.108(c). The department may withhold the rest of the marked information in the police report and the information on the CD's under section 552.108(a)(1).

Section 552.130 of the Government Code excepts from disclosure information relating 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). This exception protects personal privacy. Thus, as her authorized representative, the requestor has a right of access to his client's Texas motor vehicle information under section 552.023 of the Government Code. See *id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Therefore, that information, which we have marked, may not be withheld from this requestor under section 552.130 and must be released.<sup>1</sup> With the exception of that information, we agree that the Texas driver's license and motor vehicle information that you have marked must be withheld under section 552.130.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act.<sup>2</sup> Gov't Code § 552.147(a). We agree that the social security number that you have marked may be withheld under section 552.147.

In summary: (1) the department may withhold the marked portions of the submitted documents and the information on the CD's under section 552.108(a)(1) of the Government Code, except for the basic information relating to the property involved that must be released under section 552.108(c); (2) the department must withhold the Texas driver's license and motor vehicle information that you have marked under section 552.130 of the Government Code, except for the information relating to the requestor's client's vehicle that we have

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<sup>1</sup>Should the department receive another request for these same records from a person who would not have a right of access to the requestor's client's private information, the department should resubmit these records and request another decision. See Gov't Code §§ 552.301(a), .302.

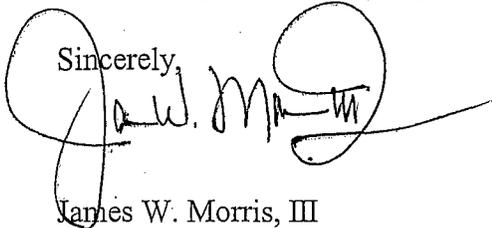
<sup>2</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

marked and that must be released under section 552.023 of the Government Code; and (3) the department may withhold the marked social security number under section 552.147 of the Government Code. As we are able to make these determinations, we need not address the other exception you claim.<sup>3</sup>

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III", with a large, stylized flourish extending to the right.

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

JWM/cc

Ref: ID# 337804

Enc: Submitted documents

c: Requestor  
(w/o enclosures).

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<sup>3</sup>We note that section 552.103 of the Government Code does not generally except from disclosure the same basic information that must be released under section 552.108(c). See Open Records Decision No. 597 (1991).