



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 14, 2009

Mr. Christopher D. Taylor  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2009-12953

Dear Mr. Taylor:

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# 359560 (LGL-09-849).

The Waco Police Department (the "department") received a request for information relating to a specified case number. You indicate that some of the requested information either has been or will be released. You claim that other responsive information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

We first note that the information on the submitted CD is not responsive to this request for information. This decision does not address the public availability of information that is not responsive to this request, and that information need not be released in response to the request.

Section 552.101 of Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 911 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone

numbers and addresses of 911 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. We understand that the City of Waco is part of an emergency communication district established under section 772.318 and that you seek to withhold the telephone number and address you have marked on the basis of that section. To the extent that the information is related to a 911 caller and was furnished by a 911 service supplier, we conclude that the department must withhold the highlighted information under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

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 must reasonably explain how and why section 552.108 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 have marked the submitted information that the department seeks to withhold under section 552.108. You inform us, and have provided a memorandum from the department stating, that the marked information is related to a pending criminal investigation. Based on your representations and the memorandum, we conclude that section 552.108(a)(1) is applicable in this instance. *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; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. Except for any basic information that must be released under section 552.108(c), the department may withhold the information you have marked under section 552.108(a)(1).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document. *See* Gov’t Code § 552.130(a)(2)-(3). We note that this exception protects personal privacy. Therefore, because the requestor has a right of access to her own private information under section 552.023 of the Government Code, the department may not

withhold the requestor's Texas motor vehicle information under section 552.130 and must release that information, which we have marked. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).<sup>1</sup> We conclude that the department must withhold the other Texas license plate, vehicle identification and personal identification numbers you have marked, as well as the additional motor vehicle information we have marked, 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 conclude that the department may withhold the arrested person's social security number, which you have marked, under section 552.147.

In summary: (1) the department must withhold the telephone number and address you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code to the extent the marked information is related to a 911 caller and was furnished by a 911 service supplier; (2) the department may withhold the marked information that is related to the pending investigation under section 552.108(a)(1) of the Government Code, except for any basic information that must be released under section 552.108(c); (3) except for the requestor's Texas motor vehicle information, which we have marked for release, the department must withhold the Texas license plate, vehicle identification and personal identification numbers you have marked and the additional motor vehicle information we have marked under section 552.130 of the Government Code; and (4) the arrested person's social security number may be withheld under section 552.147 of the Government Code. The department must release the rest of the submitted information unless it has already done so.

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),

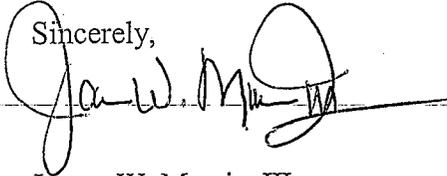
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<sup>1</sup>Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

<sup>2</sup>We note that section 552.147(b) 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.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and "M".

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

JWM/cc

Ref: ID# 359560

Enc: Submitted information

c: Requestor  
(w/o enclosures)