



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 23, 2009

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

OR2009-13425

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# 360739 (LGL-09-886).

The Waco Police Department (the "department") received a request for information relating to a specified case number. You inform us 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 552.108, 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 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 information the department seeks to withhold under section 552.108. You state that the marked information is related to a pending criminal case. Based on your representation, we conclude that the department may withhold that information under section 552.108(a)(1). *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).

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). Because this exception protects personal privacy, the requestor has a special right of access to her own Texas driver's license and motor vehicle information under section 552.023 of the Government Code. *See id.* § 552.023(a).¹ Therefore, that information may not be withheld from this requestor under section 552.130 and must be released.² *See* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). We agree that the department must withhold the rest of the Texas driver's license and motor vehicle information you have marked under section 552.130. We have marked other information that also must be withheld under this exception.

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.³ *Id.* § 552.147(a). The requestor also has a right, however, to her own social security number. *See generally id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). Therefore, the department also must release the requestor's social security number.

In summary: (1) the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code; (2) except for the requestor's Texas driver's license and motor vehicle information, which must be released, the department must withhold the Texas driver's license and motor vehicle information you have marked, along with the additional information we have marked, under section 552.130 of the Government Code; and (3) the requestor's social security number also must be released. The department also must release the rest of the submitted information unless it has already done so.

¹Section 552.023(a) provides 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).

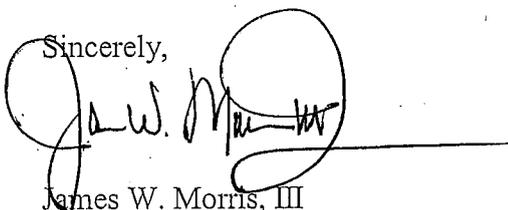
²Should the department receive another request for these same records from a person who would not have a right of access to this requestor's private information, the department should resubmit these records and request another decision. *See* Gov't Code §§ 552.301(a) .302.

³We 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.

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, 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 "J.W. Morris, III", is written over a horizontal line. The signature is stylized and includes a large loop at the end.

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

JWM/cc

Ref: ID# 360739

Enc: Submitted information

c: Requestor
(w/o enclosures)