



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 31, 2011

Ms. Tiffany Bull
Assistant Police Legal Advisor
Arlington Police Department
P.O. Box 1065 Mail Stop 04-0200
Arlington, Texas 76004-1065

OR2011-07665

Dear Ms. Bull:

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# 423745 (Reference No. 3963-050411).

The Arlington Police Department (the "department") received a request for a specified report. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

We note the information at issue was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2011-06357 (2001). In that ruling, we concluded the department may not withhold the submitted report under section 552.101 of the Government Code on the basis of section 58.007 of the Family Code. Although you again claim section 552.101 in conjunction with section 58.007, you do not indicate there has been any change in the law, facts, and circumstances on which Open Records Letter No. 2011-06357 is based. We therefore conclude the department may not withhold the submitted report under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. See Gov't Code § 552.301(f); 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 next note the department did not claim section 552.108 for the submitted report in requesting Open Records Letter No. 2011-06357. The Act does not permit selective disclosure of information to the public. *See* Gov't Code §§ 552.007(b), .021; Open Records Decision No. 463 at 1-2 (1987). Information that has been released to a member of the public may not subsequently be withheld from another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007(a); Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988). Section 552.108 is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 neither prohibits public disclosure of information nor makes information confidential under law. Thus, in previously electing not to claim section 552.108, the department has waived that exception and may not withhold any of the submitted information under section 552.108 of the Government Code.

We note some of the submitted information falls within the scope of section 552.130 of the Government Code, which excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state.¹ *See* Gov't Code § 552.130(a)(1). The department must withhold the Texas driver's license numbers we have marked under section 552.130 of the Government Code.² The department must release the rest of the submitted 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.

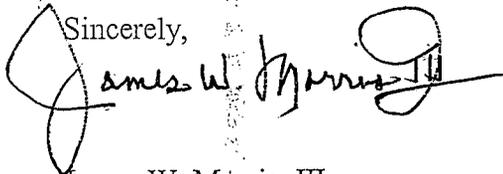
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

¹This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

²We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including a Texas driver's license number under section 552.130 of the Government Code.

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 a long horizontal stroke at the end.

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

JWM/em

Ref: ID# 423745

Enc: Submitted documents

c: Requestor
(w/o enclosures)