



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 5, 2011

Mr. Marc J. Schnall  
Langley & Banack  
745 East Mulberry, Suite 900  
San Antonio, Texas 78212-3166

OR2011-09443

Dear Mr. Schnall:

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# 424437.

The Selma Police Department (the "department"), which you represent, received a request for information relating to a specified case. You claim some of the requested information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1), (2). As a general rule, the protections provided by section 552.108(a)(1) and section 552.108(a)(2) are mutually exclusive. Section 552.108(a)(1) is applicable to information pertaining to a pending criminal investigation or prosecution, while section 552.108(a)(2) protects law enforcement records pertaining to a criminal investigation or prosecution that concluded in a final result other than a conviction or a deferred adjudication. 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. Although you cite to section 552.108(a)(2), you state the marked information is related to an incident that resulted in an arrest, as a result of which charges have been or will be filed with the Bexar County District Attorney's Office. You contend release of the information at issue would interfere with the investigation or prosecution of crime. Accordingly, we understand you to claim section 552.108(a)(1) for the marked information. Based on your representations, we conclude the department may withhold the marked information under section 552.108(a)(1) of the Government Code. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.— Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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 or another state or country. *See Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4* (to be codified as an amendment to Gov't Code § 552.130). You have marked the information the department seeks to withhold under section 552.130. We find some of the information at issue does not fall within the scope of this exception. Except for that information, which we have marked for release, we agree the department must withhold the Texas driver's license and motor vehicle information you have marked under section 552.130 of the Government Code.<sup>1</sup>

In summary: (1) the information you have marked to be withheld under section 552.108 of the Government Code may be withheld under section 552.108(a)(1); and (2) except for the information we have marked for release, the department must withhold the Texas driver's license and motor vehicle information you have marked under section 552.130 of the Government Code. The department must release the rest of the submitted information.

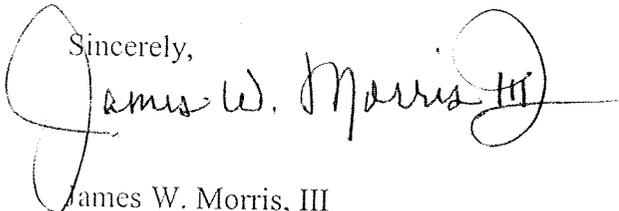
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>1</sup>We 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 Texas driver's license and license plate numbers under section 552.130 of the Government Code.

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

Sincerely,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large, looping initial "J" and a distinct "III" at the end.

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

JWM/em

Ref: ID# 424437

Enc: Submitted documents

c: Requestor  
(w/o enclosures)