



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 1, 2011

Ms. Michelle L. Villarreal
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2011-10997

Dear Ms. Villarreal:

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# 429801 (LGL-11-868).

The Waco Police Department (the "department") received a request for information relating to a fatal traffic accident. You indicate some of the requested information has been released. You claim 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 release of the marked information would interfere with a pending case. 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, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). We note section 552.130 protects privacy, which is a personal right that lapses at death. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 (1981). Therefore, the department may not withhold the deceased accident victim's driver's license information under section 552.130 and must release that information, which we have marked. Likewise, information relating to the deceased victim's vehicle may only be withheld under section 552.130 if a living individual owns an interest in the vehicle. We also note the requestor identifies an insured person. If the requestor is seeking access to information relating to the insured person on his behalf, then the requestor has a right of access to the insured person's driver's license and motor vehicle information under section 552.023 of the Government Code. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).¹ In that event, the insured person's driver's license and motor vehicle information may not be withheld under section 552.130 and must be released. If the requestor is not acting on behalf of the insured person, then the department must withhold the insured person's driver's license and motor vehicle information under section 552.130. In either event, we conclude the department must withhold the rest of the driver's license and motor vehicle information you have marked, along with the additional information we have marked, under section 552.130, provided a living individual owns an interest in the deceased victim's vehicle.²

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 Gov't Code

¹Section 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).

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 Texas driver's license and license plate numbers under section 552.130 of the Government Code.

³We note 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.

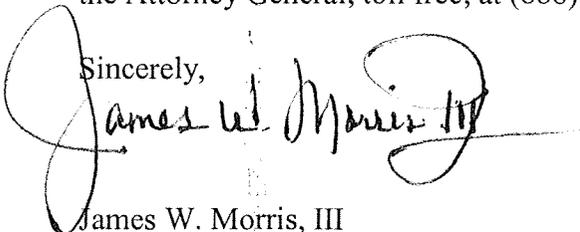
§ 552.147(a). We agree the department may withhold the social security number you have marked under section 552.147 of the Government Code.

In summary: (1) the department may withhold the marked information related to the pending case under section 552.108(a)(1) of the Government Code; (2) except for the information we have marked for release, the department must withhold the driver's license and motor vehicle information you have marked, along with the information we have marked, under section 552.130 of the Government Code, provided a living individual owns an interest in the deceased victim's vehicle, unless the requestor has a right of access to the insured person's driver's license and motor vehicle information 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. 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 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 initial "J" and a long horizontal flourish extending to the right.

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

JWM/em

Ref: ID# 429801

Enc: Submitted documents

c: Requestor
(w/o enclosures)