



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 23, 2011

Ms. Andrea M. Gardner  
City Manager  
City of Copperas Cove  
P.O. Drawer 1449  
Copperas Cove, Texas 76522

OR2011-12175

Dear Ms. Gardner:

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# 428107.

The Copperas Cove Police Department (the "department") received a request for documentation of a specified traffic stop, including audio or video recordings. You claim the requested 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(a)(1) 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(a)(1) 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 state the submitted information is related to an investigation and prosecution that resulted in a deferred disposition, which we understand was governed by article 45.051 of the Code of Criminal Procedure. Having considered your representations, we find you have not sufficiently shown the submitted information is related to a pending criminal case. Thus, you have not demonstrated release of the information would interfere with the detection, investigation, or prosecution of crime. We therefore conclude the department may not withhold the submitted information under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information related 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). We have marked the driver's license and motor vehicle information in the submitted traffic citation that falls within the scope of section 552.130. The remaining information you have marked does not fall within the scope of section 552.130 and must be released. We note section 552.130 protects personal privacy. In this instance, the requestor may be an attorney for the individual who was the subject of the traffic stop. If so, then the requestor would have a right of access under section 552.023 of the Government Code to the individual's driver's license and motor vehicle information. *See* Gov't Code § 552.023.<sup>1</sup> Therefore, if the requestor is the individual's attorney, then the driver's license and motor vehicle information we have marked in the citation may not be withheld under section 552.130 and must be released to this requestor pursuant to section 552.023. *See* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). If the requestor is not the individual's authorized representative, then the department must withhold the marked driver's license and motor vehicle information in the citation under section 552.130.<sup>2</sup> We note the audio/video recording also contains motor vehicle information, including information pertaining to individuals other than the one who was the subject of the traffic stop. You state the department does not have the capability to redact the motor vehicle information from the recording. Based on your representation, we conclude the department must withhold the audio/video recording in its entirety under section 552.130.

In summary, the department (1) must withhold the marked driver's license and motor vehicle information in the citation under section 552.130 of the Government Code, unless the requestor has a right of access to the information under section 552.023 of the Government Code, and (2) must withhold the audio/video recording in its entirety under section 552.130. The department must release the rest of the submitted information.<sup>3</sup>

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<sup>1</sup>Section 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).

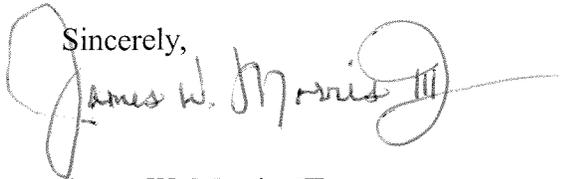
<sup>2</sup>We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including a Texas driver's license number and a Texas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

<sup>3</sup>Although you also raise section 552.147 of the Government Code, which excepts a living person's social security number from public disclosure under the Act, we note the remaining information does not include a social security number. *See* Gov't Code § 552.147(a). We note 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](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 long horizontal stroke extending to the right.

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

JWM/em

Ref: ID# 428107

Enc: Submitted information

c: Requestor  
(w/o enclosures)