



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 6, 2013

Ms. Karla J. Alvarez
Records Clerk
Edinburg Police Department
1702 South Closner Boulevard
Edinburg, Texas 78539

OR2013-02121

Dear Ms. Alvarez:

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# 482662 (Reference No. 46672).

The Edinburg Police Department (the "department") received a request for information related to a specified case involving a named individual. You claim some of the requested information is excepted from disclosure under sections 552.108, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. This exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *Id.* at 681-82. Personal financial information related only to an individual

¹This office will raise section 552.101 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).

ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. See Open Records Decision Nos. 600 at 9-12 (1992), 545 at 4 (1990), 523 at 4 (1989), 373 at 4 (1983). We have marked personal financial information the department must withhold under section 552.101 of the Government Code in conjunction with common-law privacy.

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 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(a)(1). You indicate release of the marked information would interfere with a pending criminal case. Based on your representation, we conclude section 552.108(a)(1) is generally applicable to the marked information. 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).

We note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page offense and arrest information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department must release basic information, including a detailed description of the offense from the narrative portion of the submitted police report, even if the information does not literally appear on the front page of the report. Except for basic information under section 552.108(c), the department may withhold the information you have marked 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 Gov’t Code § 552.130(a)(1)-(2). We conclude the department must withhold the driver’s license and motor vehicle information you have marked and the additional driver’s license and motor vehicle information we have marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides that “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); see *id.* § 552.136(a) (defining “access device”). As this office has determined an insurance policy number is an access device for purposes of this exception, we

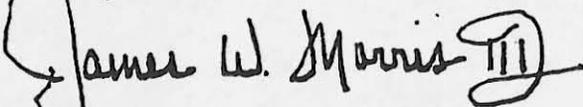
agree the department must withhold the insurance policy number you have marked under section 552.136 of the Government Code.

In summary, the department (1) must withhold the personal financial information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) may withhold the information you have marked under section 552.108(a)(1) of the Government Code, except for basic information under section 552.108(c), which must be released; (3) must withhold the driver's license and motor vehicle information you have marked and the additional driver's license and motor vehicle information we have marked under section 552.130 of the Government Code; and (4) must withhold the insurance policy number you have marked under section 552.136 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 stylized "III" at the end.

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

JWM/bhf

Ref: ID# 482662

Enc: Submitted documents

c: Requestor
(w/o enclosures)