



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 8, 2013

Mr. Matthew B. Cross
Assistant City Attorney
Office of the City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2013-02224

Dear Mr. Cross:

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# 482107.

The El Paso Police Department (the "department") received a request for information involving a specified address from a specific time period. You state some of the requested information either has been or will be released. You indicate the city will redact a social security number pursuant to section 552.147(b) of the Government Code.¹ You claim the rest of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

We note some of the submitted information was created subsequent to the date of the department's receipt of the present request for information. The Act does not require a governmental body to release information that did not exist when it received a request or

¹Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without requesting a decision under the Act.

create responsive information.² Thus, the information we have marked that was created after the department received the present request is not responsive to the request. This decision does not address the public availability of the marked information, which the department need not release in response to the request.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses information made confidential by other statutes, including sections 772.118, 772.218, and 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 are applicable to emergency 911 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 911 callers furnished by a service supplier confidential. We understand the City of El Paso is part of an emergency communication district established under section 772.318. You state the telephone numbers and addresses you have marked pertain to 911 callers and were furnished by a 911 service supplier. Based on your representations, we conclude the department must withhold the marked telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.108(a)(2) 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 . . . 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)(2). 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 state the remaining information pertaining to case numbers 12-075199, 12-165136, and 12-285244 is related to concluded cases that did not result in a conviction or a deferred adjudication. Based on your representation, we conclude the department may withhold that information under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information related to 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)(2). We conclude the department must withhold the motor vehicle information you have marked and the additional motor vehicle information we have marked under section 552.130 of the Government Code.

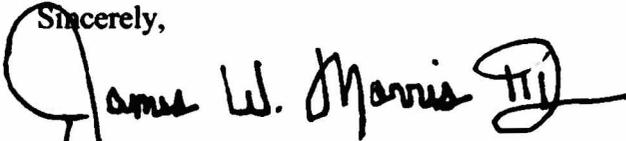
²*See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

In summary, the department (1) must withhold the marked telephone numbers and addresses of 911 callers under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code; (2) may withhold the remaining information pertaining to case numbers 12-075199, 12-165136, and 12-285244 under section 552.108(a)(2) of the Government Code; and (3) must withhold the motor vehicle information you have marked and the additional motor vehicle information we have marked under section 552.130 of the Government Code.

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# 482107

Enc: Submitted documents

c: Requestor
(w/o enclosures)