



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 9, 2009

Mr. Christopher D. Taylor
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2009-14276

Dear Mr. Taylor:

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# 362472 (LGL-09-970).

The Waco Police Department (the "department") received a request for information relating to two specified case numbers. You indicate that some of the requested information either has been or will be released. You claim that other responsive 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.

Section 552.101 of 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 that other statutes make confidential. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code 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. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. We understand that the City of Waco is part of an

emergency communication district established under section 772.318 and that you seek to withhold the telephone number and address you have marked on the basis of that section. To the extent that it is related to a 911 caller and was furnished by a 911 service supplier, we conclude that the department must withhold the marked information under section 552.101 in conjunction with section 772.318 of the Health and Safety Code.

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 that the department seeks to withhold under section 552.108. You state that the marked information pertains to a pending criminal case. Based on your representations and the memorandum, we conclude that the department may withhold the marked information under section 552.108(a)(1). *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1). We note that this exception protects personal privacy. Therefore, because the requestor has a right of access to his own private information under section 552.023 of the Government Code, the department may not withhold the requestor’s Texas driver’s license number under section 552.130 and must release that information in this instance. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).¹

In summary: (1) the department must withhold the marked telephone number and address under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code to the extent that the marked information is related to a 911 caller and was furnished by a 911 service supplier; and (2) the department may withhold the

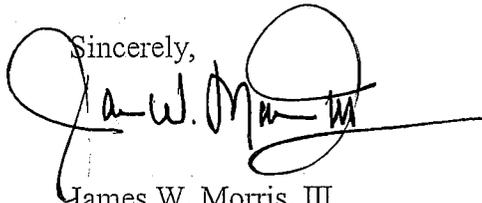
¹Section 552.023 provides in part that “[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.” Gov’t Code § 552.023(a).

marked information that pertains to the pending case under section 552.108(a)(1) of the Government Code. The department must release the rest of the submitted information unless it has already done so.²

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, appearing to read "James W. Morris, III". The signature is stylized 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/cc

Ref: ID# 362472

Enc: Submitted information

c: Requestor
(w/o enclosures)

²Should the department receive another request for these same records from a person who would not have a right of access to this requestor's private information, the department should resubmit these records and request another ruling. See Gov't Code §§ 552.301(a), .302.