



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 10, 2011

Ms. Kathy Allen
Records Supervisor
Burleson Police Department
225 West Renfro
Burleson, Texas 76028

OR2011-03377

Dear Ms. Allen:

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# 411511 (No. 953).

The Burleson Police Department (the "department") received a request for information relating to a traffic accident. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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." Gov't Code § 552.101. This exception encompasses the doctrine of common-law privacy, which protects information that contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered to be intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* include information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances where it is demonstrated that the requestor knows the identity of the individual involved as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

Although you appear to contend the department must withhold all of the submitted information from this requestor on privacy grounds, we find this is not such an instance. Nevertheless, we conclude some of the submitted information is highly intimate or embarrassing and not a matter of legitimate public concern. The department must withhold that information, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

We note some of the remaining information at issue falls within the scope of section 552.130 of the Government Code, which 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.¹ *See* Gov't Code § 552.130(a)(1)-(2). The department must withhold the Texas driver's license and motor vehicle information we have marked under section 552.130 of the Government Code. Although the remaining information includes the Texas license plate number of the requestor's client's vehicle, we note section 552.130 protects personal privacy. Therefore, the requestor has a right of access under section 552.023 of the Government Code to her client's license plate number, and the department may not withhold that information from this requestor under section 552.130. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).²

In summary, the department must withhold (1) the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and (2) the Texas driver's license and motor vehicle information we have marked under section 552.130 of the Government Code. The department must release the rest of the submitted information.³

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.

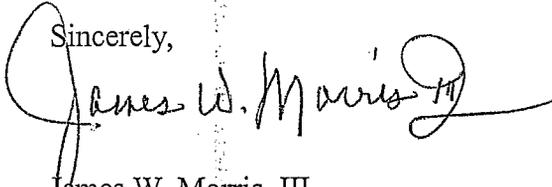
¹This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

²Section 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).

³We 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, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Thus, should the department receive another request for these same records from a person other than one with a right of access under section 552.023, the department is authorized to withhold the requestor's client's Texas license plate number under section 552.130 without requesting another decision.

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 at the end.

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

JWM/em

Ref: ID# 411511

Enc: Submitted documents

c: Requestor
(w/o enclosures)