



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 29, 1995

Mr. Gary Smith
City Attorney
City of Greenville
P.O. Box 1049
Austin, Texas 75403-1049

OR95-1308

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure pursuant to chapter 552 of the Government Code. Your request was assigned ID# 36772.

The City of Greenville (the "city") received a request for a copy of an arrest report related to a particular offense. You state that the related case was closed on September 8, 1994. You state that the city considers the offense report and most of the arrest report to generally be public information and you state that you will provide a copy of the offense report and most of the arrest report to the requestor. You contend, however, that the portion of the arrest report that reflects information from the National Crime Information Center ("NCIC") and the Texas Crime Information Center ("TCIC") is excepted from required disclosure pursuant to section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law, and section 552.108 of the Government Code. You have submitted for our review the records at issue.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The documents submitted to us for review include information that appears to have been generated by the TCIC or NCIC. Title 28, Part 20 of the Code of Federal Regulations governs the release of criminal history record information ("CHRI") that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI that it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (the "DPS") maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov't Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other

criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency, such as the city's police department, to obtain CHRI; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1).

Thus, any criminal history record information generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. See Open Records Decision No. 565 (1990). Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F.¹ Please note, however, that driving record information is *not confidential* under chapter 411, see Gov't Code § 411.082(2)(B), and must be disclosed. You may withhold the information submitted for our review pursuant to section 552.101 of the Government Code.

Since we resolve your request pursuant to section 552.101 we do not address the applicability of section 552.108. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes
Assistant Attorney General
Open Records Division

KPB/rho

Ref: ID# 36772

Enclosure: Submitted document

cc: Mr. Alton E. Campbell, Jr.
Rt. 2, Box 1092D
Locust Grove, Oklahoma 74352
(w/o enclosure)

¹We note that in this instance, the requestor is seeking a copy of his own arrest report. Though the requestor may not obtain this information from the city's police department he can obtain a copy from the Department of Public Safety, pursuant to section 411.083 of the Government Code, and/or the Federal Bureau of Investigation pursuant to the federal regulations.