



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 19, 1995

Ms. Tamara A. Armstrong  
Assistant County Attorney  
County of Travis  
P.O. Box 1748  
Austin, Texas 78767

OR95-1449

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31658.

The Travis County District Attorney's office received a request for the following documents relating to a pedestrian-vehicle accident:

1. A copy of all field notes, witness statements, measurements, photographs, incident reports or other investigatory documents prepared by or on behalf of the Department of Public Safety.
2. All witness statements.

We understand that you have released the requested information with the exception of the criminal history information on one of the witnesses. You contend that this information is excepted from disclosure pursuant to section 552.101 of the Government Code. We agree. Section 552.101 excepts from disclosure "information deemed confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Federal regulations prohibit the release of criminal history report information ("CHRI") maintained in state and local CHRI systems to the general public. *See* 28 C.F.R. § 20.21.(c)(1) ("Use of criminal history record information disseminated to noncriminal justice agencies shall be limited

to the purpose for which it was given.”), (2) (“No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself.”). Section 411.083 provides that any CHRI maintained by the Department of Public Safety (“DPS”) is confidential. Gov’t Code § 411.083(a). Similarly, CHRI obtained from the DPS pursuant to statute is also confidential and may only be disclosed in very limited instances. Gov’t Code § 411.084. *See also* Gov’t Code § 411.087 (restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Accordingly, pursuant to state law and federal regulations, you may not release the submitted CHRI to the requestor.

We are resolving this matter with an 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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/MAR/rho

Ref.: ID# 31658

Enclosures: Submitted documents

cc: Mr. Mark Hefter  
Shields & Rusk  
910 Lavaca  
Austin, Texas 78701  
(w/o enclosures)