



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 7, 1998

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR98-0912

Dear Mr. Pigott:

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# 114946.

The Texas Department of Public Safety (the "department") received a request for "all reports submitted to the Department of Public Safety by local law enforcement agencies . . . relating to concealed handgun incidents, under § 411.047 Texas Government Code." You contend that the requested information is deemed confidential by section 411.192 of the Government Code. We have reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 411.047 in subchapter D of the Government Code provides for the reporting of incidents in which a handgun license holder is arrested for an offense. Section 411.047 states:

(a) The department shall maintain statistics related to responses by law enforcement agencies to incidents in which a person licensed to carry a handgun under Subchapter H is *arrested* for an offense under Section 46.035, Penal Code, or discharges a handgun.

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(b) The department by rule shall adopt procedures for local law enforcement to make reports to the department described by Subsection (a).

Gov't Code § 411.047 (emphasis added). You argue that the reports required to be submitted to the department under section 411.047 are the same as those reports required to be submitted by section 411.186. Consequently, you assert that the section 411.047 reports are deemed confidential under section 411.192.

Sections 411.186 and 411.192 are in subchapter H of the Government Code which pertains to the procedures for obtaining and retaining a license to carry a concealed handgun. Section 411.186 enumerates four reasons for which a license may be revoked. One reason is if the license holder is *convicted* of an offense under section 46.035 of the Penal Code. Gov't Code § 411.186(a)(4). If a license is revoked because of any of the four enumerated reasons, then a peace officer must submit a report to the department. *Id.* § 411.186(b). Such a report, submitted pursuant to section 411.186 of subchapter H, is deemed confidential by section 411.192, which states in pertinent part as follows:

all . . . records maintained under this subchapter, [subchapter H], are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552. . . .

After a review of the applicable statutes and the submitted information, we conclude that the reports for sections 411.047 and 411.186 are not the same. The confidentiality provided by section 411.192 applies only to records maintained under subchapter H. As you have acknowledged, the requested reports are maintained under subchapter D; therefore, they are not deemed confidential under section 411.192. Accordingly, you must release the requested information.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

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Ref.: ID# 114946

Enclosure: Submitted document

cc: Mr. Robert S. Hogan
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(w/o enclosure)