



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 28, 1998

Ms. Joni M. Vollman  
Assistant General Counsel  
Office of the District Attorney  
County of Harris  
201 Fannin, Suite 200  
Houston, Texas 77002-1901

OR98-1324

Dear Ms. Vollman:

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# 115803.

The Harris County District Attorney (the "district attorney") received a request for "the State's file in State v. James Hartness, III, Cause Number 709043." You state that certain documents will be disclosed to the requestor. You claim that the remaining information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [public disclosure] if . . . (3) it is information that: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

You specifically quote the pertinent language from the provision cited above in arguing that the records in Exhibit "A" constitute the "work product" of the prosecutors for the district attorney. We have reviewed the documents in Exhibit "A." We find that these records deal with the prosecution of crime and reflect the mental impressions or legal reasoning of an attorney representing the state. See Gov't Code § 552.108(a)(3)(B). You may, therefore, withhold from disclosure the documents contained in Exhibit "A" under section 552.108.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. You claim that the records submitted in Exhibit "B" are made confidential by state and federal law. Criminal history record information ("CHRI") that is generated by the Texas Crime Information Center ("TCIC") or the National Crime Information Center ("NCIC") must not be publicly released. Title 28, Part 20 of the Code of Federal Regulations governs the release of CHRI which 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 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 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). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release the information except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI 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 criminal history record information 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. 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.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch  
Assistant Attorney General  
Open Records Division

VDP/alg

Ref.: ID# 115803

Enclosures: Submitted documents

cc: Ms. Trude Scott  
Attorney at Law  
405 Main Street  
Houston, Texas 77002  
(w/o enclosures)