



April 22, 1999

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

OR99-1064

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123546.

The Harris County District Attorney's Office (the "DA") received a request for two files of a particular person. You have released some of the requested information, but you contend that the remainder of the requested information is exempted from disclosure under sections 552.101 and 552.108 of the Government Code. You have submitted this information for our review. We have considered the exceptions you claim and reviewed the submitted information.

First, you argue that the information in Exhibit A is exempted from public disclosure pursuant to section 552.108 of the Government Code. Section 552.108 reads in pertinent part as follows:

. . . .

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is exempted from the requirements of Section 552.021 if:

(3) the internal record or notation:

(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.

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

You contend that this information, the cover folder of the prosecutor's files, is the work product of the prosecutors for the Harris County District Attorney's Office. We conclude that the information in Exhibit A contains the handwritten notes of prosecutors, and therefore, the requested information may be withheld from public disclosure pursuant to 552.108 (b)(3)(A) of the Government Code because it was prepared by an attorney representing the state in criminal litigation.

You next argue that the material in Exhibit B must be withheld under section 552.101. Section 552.101 of the Government Code 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 Record 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. *Id.* § 411.084; *see also id.* § 411.087 (restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Therefore, any CHRI in your possession that falls within the ambit of these state and federal regulations must be withheld.

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.

Sincerely,

*David Van Brunt Price*  
David Van Brunt Price  
Assistant Attorney General  
Open Records Division

DVP\nc

Ref: ID# 123546

Encl: Submitted documents

cc: Mr. Ken McLean  
1900 North Loop West, Suite 500  
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(w/o enclosures)