



March 13, 2000

Ms. Lisa Aguilar  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2000-0993

Dear Ms. Aguilar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132901.

The City of Corpus Christi (the "city") received a request for an application file for the position of deputy marshal with the municipal courts. You claim that documents labeled Exhibits C and D are excepted from disclosure under section 552.108 of the Government Code and under section 552.101 in conjunction with section 411.084 of the Government Code. You have released the remainder of the requested information. We have considered the exceptions you claim and reviewed the submitted information.

You assert that Exhibit C is excepted from required public disclosure by section 552.108 of the Government Code. Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). It is clear that the offense report included in Exhibit C pertains to a pending case. We therefore believe that the release of the offense report "would interfere with the detection, investigation, or prosecution of crime." *Id.*

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the

information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold the offense report from disclosure based on section 552.108(a)(1).

As to the remaining information in Exhibit C, you assert that they are internal records, the release of which "would interfere with law enforcement." However, we are unable to conclude that their release would interfere with law enforcement or prosecution. *See* Gov't Code § 552.108(b)(1); *see also* Open Records Decision No. 508 at 4 (1988) (governmental body must demonstrate how release of particular information at issue would unduly interfere with law enforcement efforts unless information does so on its face). We therefore conclude that the documents other than the offense report are not excepted from disclosure under section 552.108 and must be released to the requestor in their entirety. We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

You assert that the documents submitted as Exhibit D represent criminal history record information ("CHRI") that is excepted from public disclosure under section 552.101 of the Government Code. Section 552.101 protects information that is made confidential by law, either constitutional, statutory, or by judicial decision. Access to CHRI obtained from the National Crime Information Center ("NCIC") is governed and restricted by federal law. *See* 28 C.F.R. § 20.1, *et seq.*; Open Records Decision No. 565 at 10-12 (1990). The relevant federal regulations permit each state to follow its own applicable law with respect to the CHRI that it generates. ORD 565 at 11-12. Sections 411.083 and 411.089 of the Government Code authorize a criminal justice agency to obtain CHRI from the Texas Crime Information Center ("TCIC"). However, CHRI obtained from the TCIC network may be released by a criminal justice agency only to another criminal justice agency for a criminal justice purpose. Gov't Code § 411.089(b)(1). Thus, CHRI from the NCIC generated by the federal government or another state may be obtained only in accordance with the relevant federal regulations, and CHRI obtained from the Texas Department of Public Safety or another Texas criminal justice agency through the TCIC must be withheld in accordance with subchapter F of chapter 411 of the Government Code. We agree that section 552.101 of the Government Code, in conjunction with federal and state statutory law, requires the city to withhold all CHRI obtained from the NCIC or TCIC.

We also note that the city may have obtained some of the records in Exhibit D from a local database. As such local information is essentially a compilation of an individual's criminal history, the compilation or summary assumes a character that implicates the person's right of privacy, so as to be confidential under section 552.101. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). In this instance, however, the requestor is the person who is the subject of the local CHRI. "A person or a person's authorized representative has a special right of access, beyond the right of the

general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a). Thus, the requestor has a special right of access to any CHRI pertaining to himself that the city compiled from local law enforcement records. Any CHRI of that nature must be released.

In summary, the city must release all of Exhibit C, except that it need only release basic information from the included offense report. The city must withhold all CHRI obtained from the NCIC or TCIC, but must release any compiled from local law enforcement records that pertains to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Michels Anderson", with a long horizontal flourish extending to the right.

Patricia Michels Anderson  
Assistant Attorney General  
Open Records Division

PMA/jc

Ref: ID# 132965

Encl. Submitted documents

cc: Mr. Felix De La Cruz  
4514 Adkins Drive  
Corpus Christi, Texas 78411  
(w/o enclosures)