



OFFICE of the ATTORNEY GENERAL  
GREG ABBOTT

October 7, 2003

Mr. Leonard V. Schneider  
Ross, Banks, May, Cron & Cavin, P.C.  
2 Riverway, Suite 700  
Houston, Texas 77056-1918

OR2003-7086

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 188973.

The City of League City (the "city"), which you represent, received a request for information relating to an alleged aggravated assault with a deadly weapon on a specified date. You claim that some of the requested information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

We first note that some of the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information that another statute makes confidential. Criminal history record information ("CHRI") obtained from the National Crime Information Center ("NCIC") or the Texas Crime Information Center ("TCIC") is made confidential under federal and state law. Federal law governs the dissemination of CHRI obtained from the NCIC network. Federal regulations prohibit the release to the general public of CHRI that is maintained in state and local CHRI systems. *See* 28 C.F.R. § 20.21(c)(1) ("Use of criminal history record information disseminated to noncriminal

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<sup>1</sup>Unlike other exceptions to disclosure, this office will raise section 552.101 on behalf of a governmental body, because chapter 552 of the Government Code prescribes criminal penalties for the public disclosure of confidential information. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 325 at 1 (1982) (addressing statutory predecessor to Gov't Code § 552.101).

justice agencies shall be limited to the purpose for which it was given”) and (c)(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”); *see also* Open Records Decision No. 565 at 10-12 (1990). The federal regulations allow each state to follow its own individual law with respect to CHRI that it generates. *See id.* at 10-12. Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *See Gov’t Code* § 411.089(b). Thus, CHRI generated by the federal government or another state may be disclosed only in accordance with the federal regulations. Likewise, CHRI held by the Texas Department of Public Safety or another criminal justice agency must be withheld from public disclosure as provided by subchapter F of chapter 411 of the Government Code. Furthermore, when a law enforcement agency compiles information that relates to a particular individual as a criminal suspect, arrestee, or defendant, the compilation of information takes on a character that implicates that individual’s right to privacy in a manner that the same information in an uncompiled state does not. *See United States Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989); Open Records Decision No. 616 at 2-3 (1993).<sup>2</sup> We have marked criminal history information that the city must withhold under section 552.101 of the Government Code.

Next, we address the city’s claim under section 552.130 of the Government Code. Section 552.130 excepts from disclosure “a motor vehicle title or registration issued by an agency of this state[.]” *Gov’t Code* § 552.130(a)(2). A Texas license plate number must be withheld from the public under section 552.130. Therefore, if the license plate numbers that we have marked are Texas license plate numbers, then the marked information is excepted from public disclosure under section 552.130. We note, however, that the requestor would have a special right of access to any motor vehicle information relating to the requestor that is otherwise excepted from public disclosure under section 552.130. *See Gov’t Code* § 552.023.<sup>3</sup> Thus, if any of the marked license plate numbers corresponds to a vehicle in which the requestor owns an interest, then the city may not withhold that license plate number from the requestor under section 552.130.

In summary, the city must withhold the marked criminal history information under section 552.101 of the Government Code. The city must withhold Texas license plate

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<sup>2</sup>Section 552.101 of the Government Code also encompasses the common-law right to privacy. *See Industrial Found. v. Texas Ind. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision No. 659 at 4-5 (1999).

<sup>3</sup>Section 552.023(a) provides that “[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.” *See also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body for information concerning herself).

numbers from the public under section 552.130. The requestor would have a right of access to her own Texas license plate number under section 552.023. The rest of the submitted information is not excepted from disclosure and must be released.

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).

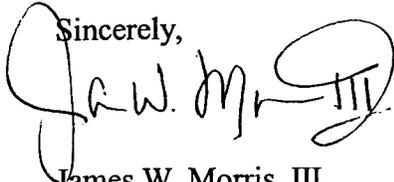
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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 "J.W. Morris III". The signature is written in a cursive style with a large initial "J" and a stylized "M".

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 188973

Enc: Submitted documents

c: Ms. Valerie Lee  
1725 Gulf Freeway, #223  
LaMarque, Texas 77568  
(w/o enclosures)