



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 19, 2003

Ms. Mary E. Reveles
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469-3108

OR2003-8308

Dear Ms. Reveles:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 191411.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for the name and address of the owner of a vehicle involved in a collision with the requestor's vehicle. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. Criminal history record information ("CHRI") is confidential and not subject to disclosure. Federal regulations prohibit the release of 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).

Section 411.082(2) of the Government Code defines CHRI as “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal charges and their dispositions.” You indicate that the submitted document is an “MVD Return from NCIC/TCIC.” Upon review, we find that the submitted document is a vehicle registration record and is not CHRI made confidential under subchapter F of chapter 411 of the Government Code. Thus, the sheriff may not withhold the submitted information under section 552.101 in conjunction with federal law or chapter 411.

We note, however, that some information in the submitted document is excepted from disclosure under section 552.101 in conjunction with chapter 730 of the Transportation Code. Section 730.004 of the Transportation Code prohibits the release of “personal information” about any person obtained in connection with a motor vehicle record by an agency that maintains or compiles motor vehicle records, except under certain circumstances not present here. Under section 730.003, “personal information” means information that identifies a person, including the person’s social security number, driver identification number, name, address, (but not the zip code), and telephone number. *See* Transp. Code § 730.003(6). In this case, we find that the document at issue was compiled by an “agency” of the state for purposes of section 730.004. *See* Transp. Code § 730.003(1) (defining “agency”). Accordingly, we determine that the sheriff must withhold the personal information we have marked in the submitted document pursuant to section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code.

We next address your claim under section 552.130 of the Government Code. Section 552.130 provides in pertinent part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

We have marked Texas motor vehicle title and registration information in the submitted document that the sheriff must withhold pursuant to section 552.130 of the Government Code.

In summary, we have marked personal information in the submitted document that the sheriff must withhold pursuant to section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code. We have also marked Texas motor vehicle title and registration information in the submitted document that the sheriff must withhold pursuant to section 552.130 of the Government Code. The remainder of the submitted information must be released 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 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,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 191411

Enc: Submitted documents

c: Ms. Rebecca Y. Arismendez
1435 Moore Road
Stafford, Texas 77477
(w/o enclosures)