



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 2, 2006

Ms. Janis Kennedy Hampton  
Assistant City Attorney  
City of Bryan  
P. O. Box 1000  
Bryan, Texas 77805

OR2006-01107

Dear Ms. Hampton:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 241561.

The Bryan Police Department (the "department") received a request for all e-mails "sent or received from all mobile computer equipped police patrol units for the period of 11:23 p.m. of the 10<sup>th</sup> day of September, 2005, until 3:23 a.m. of the 11<sup>th</sup> day of September, 2005." You state that portions of the submitted information are 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information that is 1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and 2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has also found that personal financial information not relating to a financial transaction between an individual

and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). Accordingly, we have marked the personal financial information that must be withheld under section 552.101 in conjunction with common-law privacy.

You also claim that portions of the submitted information contain information generated by the National Crime Information Center (“NCIC”) or by the Texas Crime Information Center (“TCIC”), which are encompassed by section 552.101 of the Government Code. Criminal history record information (“CHRI”) that is generated by NCIC or TCIC is confidential. Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (“DPS”) maintains, except that the DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. 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 CHRI 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 CHRI except as provided by chapter 411. *See generally id.* §§ 411.090 - .127. Furthermore, any CHRI 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. However, the definition of CHRI does not include driving record information maintained by DPS under chapter 521 of the Transportation Code. *See* Gov’t Code § 411.082(2)(B). Upon review, we have marked the CHRI that the department must withhold under section 552.101 of the Government Code.<sup>1</sup>

You claim that portions of the submitted information are excepted from disclosure under section 552.130 of the Government Code. In relevant part, section 552.130 provides:

- (a) Information is excepted from required public disclosure 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; [or]
  - (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

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<sup>1</sup>Because our ruling is dispositive on this issue, we need not address your other argument concerning this information.

Gov't Code § 552.130. Upon review, we have marked the Texas-issued motor vehicle record information and state identification information you must withhold under section 552.130 of the Government Code.

We note that the submitted information contains social security numbers. Section 552.147 of the Government Code<sup>2</sup> provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Therefore, the department must withhold the social security numbers contained in the submitted information under section 552.147 of the Government Code.<sup>3</sup>

In summary, the department must withhold the personal financial information we have marked under section 552.101 in conjunction with common-law privacy. The department must withhold the CHRI we have marked under section 552.101 of the Government Code. The department must withhold the Texas-issued motor vehicle record information and state identification information we have marked under section 552.130 of the Government Code. Additionally, the department must withhold the social security numbers we have marked under section 552.147 of the Government Code. The remaining information 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

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<sup>2</sup>Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, ch. 397, 2005 Tex. Sess. Law Serv. 1091 (Vernon).

<sup>3</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



Jaclyn N. Thompson  
Assistant Attorney General  
Open Records Division

JNT/krl

Ref: ID# 241561

Enc. Submitted documents

c: Jim James  
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(w/o enclosures)