



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 19, 2006

Ms. P. Armstrong  
Assistant City Attorney  
City of Dallas  
Criminal Law and Police Division  
1400 South Lamar  
Dallas, Texas 75215

OR2006-12318

Dear Ms. Armstrong:

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# 262652.

The Dallas Police Department (the "department") received a request for report number 0274216-R. We understand you to claim that the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted report relates to a pending criminal prosecution. Based upon this representation, we conclude that the release of this information would interfere with the detection, investigation, or prosecution of crime. *See 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) (court delineates law enforcement interests that are present in active cases). We therefore conclude that the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

You have marked some of the remaining information that you claim is criminal history record information ("CHRI"). 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 information protected by other statutes. Criminal history record information ("CHRI") generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential. Title 28, part 20 of the Code of Federal Regulations, which governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* 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. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565 (1990). Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 in conjunction with chapter 411, subchapter F of the Government Code. Upon review, we agree that the information you have marked consists of confidential CHRI that must be withheld under section 552.101.<sup>1</sup>

Next, you have also marked Texas motor vehicle record information and a social security number that appear in the remainder of the submitted report. Section 552.130 of the Government Code excepts from disclosure information that relates to a driver's license or motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130. We note, however, that the requestor indicates that she is seeking this information on behalf of the individual to whom it relates. Section 552.130 excepts information from disclosure in order to protect individuals' privacy. Accordingly, an authorized representative for this individual has a special right of access under section 552.023 of the Government Code to this individual's Texas motor vehicle record information, and it may not be withheld from the authorized representative under section 552.130. *See id.* § 552.023(a) (a person or a person's authorized representative has special right of access to information excepted from public disclosure under laws intended to protect that person's privacy interest). Therefore,

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<sup>1</sup>We note that the individual to whom this information pertains can obtain his own CHRI from DPS. Gov't Code § 411.083(b)(3).

if the requestor is the authorized representative of the individual at issue, then the department may not withhold the Texas motor vehicle record information from her under section 552.130. If, however, the requestor is not this individual's authorized representative, then the department must withhold the Texas motor vehicle record information that you have marked in the remaining submitted information.

With respect to the individual's social security number that you have marked, section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147. Again, however, because section 552.147 is intended to protect the privacy interests of individuals, the requestor may have a right of access to this social security number under section 552.023. *See id.* § 552.023. Accordingly, if the requestor is the authorized representative of the individual at issue, then the department may not withhold the social security number on this basis. Otherwise, if requestor is not this individual's authorized representative, then the department must withhold the social security number in accordance with section 552.147.<sup>2</sup>

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must also withhold the CHRI you have marked under section 552.101 of the Government Code in conjunction with chapter 411, subchapter F of the Government Code. If the requestor is the authorized representative of the individual whose Texas motor vehicle record information and social security number appear in the submitted report, then the department must release the remaining submitted information to the requestor.<sup>3</sup> If, however, the requestor is not this individual's authorized representative, then the department must withhold the Texas motor vehicle record information and the social security number that you have marked under sections 552.130 and 552.147 of the Government Code, and then release the remaining submitted information.

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

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<sup>2</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. Gov't Code § 552.147(b).

<sup>3</sup>If this is the case, because the Texas motor vehicle record information and social security number would not be releasable with respect to the general public, the department should again seek our decision if it receives another request for this information from a person other than the individual to whom such information relates or his authorized representative.

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 ten 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).

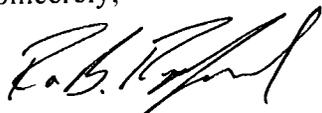
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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); *Tex. 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 ten calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel  
Assistant Attorney General  
Open Records Division

RBR/eb

Ref: ID# 262652

Enc. Submitted documents

c: Ms. Shirley Lee  
2959 Park Square Drive, No. 103  
Dallas, Texas 75060  
(w/o enclosures)