



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 20, 2006

Mr. Denis C. McElroy
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2006-13733

Dear Mr. McElroy:

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# 265012.

The City of Fort Worth (the "city") received a request for information related to a fatal traffic accident. You state that the city is releasing some of the requested information but claim 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 exception encompasses information that other statutes make confidential. Criminal history record information ("CHRI") obtained from the National Crime Information Center or the Texas Crime Information Center is confidential under federal and state law. CHRI means "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 criminal charges and their dispositions." Gov't Code § 411.082(2). Federal law governs the dissemination of CHRI obtained from the National Crime Information Center network. Federal regulations prohibit the release to the general public of CHRI 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 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"). The federal regulations allow each state to follow its own individual law with respect to CHRI that it generates. *See* Open Records Decision No. 565 at 10-12 (1990); *see generally* Gov't Code ch. 411 subch. F. 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, the CHRI you have marked in the submitted documents must be withheld from disclosure under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code.

The submitted information also includes CRB-3 Texas Peace Officer Crash Report forms completed pursuant to chapter 550 of the Transportation Code.¹ *See* Transp. Code § 550.064 (Texas Peace Officer's Accident Report form). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). In this instance, the requestor has not provided the city with two of the three pieces of information specified by section 550.065. Thus, the city must withhold the CRB-3 Texas Peace Officer Crash Report forms under section 552.101 in conjunction with section 550.065(b) of the Transportation Code.

Section 552.101 also encompasses section 772.218 of the Health and Safety Code. Section 772.218 applies only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). This statute makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2.

You state that the city is part of an emergency communication district that was established under section 772.218 and further inform us that the 9-1-1 caller's phone number in the submitted information was provided to the city by a service provider. Thus, based on your representations and our review, we determine that the city must withhold the originating telephone number of the 9-1-1 caller that you have marked pursuant to section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. We have marked an additional telephone number that may also be confidential under section 772.218. We note, however, that you have highlighted some of the remaining information that consists of neither telephone numbers nor addresses. This information is not subject to section 772.218 of the Health and Safety Code and may therefore not be withheld under section 552.101 of the Government Code on that basis.

¹The Texas Department of Public Safety informs us that the Texas Peace Officer's Accident Report, ST-3 form, has been replaced by the Texas Peace Officer's Crash Report, CRB-3 form.

The remaining submitted information contains Texas motor vehicle record information. Section 552.130 of the Government Code excepts from disclosure information that relates to a driver's license issued by an agency of this state. Gov't Code § 552.130(a)(1). Accordingly, the city must withhold the Texas motor vehicle record information you have marked in the submitted documents pursuant to section 552.130. We have marked additional information that must also be withheld under section 552.130.

In summary, the city must withhold the CHRI you have marked under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code. The submitted CRB-3 Texas Peace Officer Crash Report forms must be withheld under section 552.101 in conjunction with section 560.065 of the Transportation Code. The city must also withhold the originating telephone number of the 9-1-1 caller that you have marked pursuant to section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. To the extent the additional telephone number that we have marked is also confidential under section 772.218, it must also be withheld under section 552.101. Finally, the Texas motor vehicle record information that you have marked, and the additional information we have marked, must be withheld under section 552.130 of the Government Code. The remaining 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, 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,



L. Joseph James
Assistant Attorney General
Open Records Division

LJJ/dh

Ref: ID# 265012

Enc. Submitted documents

c: Mr. Sergio Perez
Ms. Claudia Perez
2603 North Hughes
Fort Worth, Texas 76103
(w/o enclosures)