



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 1, 2008

Ms. Susan Camp-Lee  
Sheets & Crossfield, P.C.  
309 East Main Street  
Round Rock, Texas 78664-5246

OR2008-05945

Dear Ms. Camp-Lee:

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# 308892.

The Round Rock Police Department (the "department"), which you represent, received a request for all information related to a specific accident on December 29, 2007. You state that you have released most of the requested information. You 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.

The department argues the information marked in red must be withheld under section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses chapter 411 of the Government Code, which deems confidential criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. CHRI is defined 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 criminal charges and their dispositions." Gov't Code § 411.082(2). Title 28, part 20 of the Code of Federal Regulations 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 DPS maintains, except that 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. *See* Gov't Code § 411.082(2)(B) (term CHRI does not include driving record information). Therefore, the department must withhold the CHRI that we have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type 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. In addition, this office has found that the following types of information are excepted from required public disclosure under common-law privacy: personal financial information not relating to a financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Furthermore, an individual's criminal history when compiled by a governmental body may be protected under common-law privacy. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). We agree that the remaining information you have marked in red and all of the information marked in green is protected under common-law privacy. Therefore, the department must withhold the information we have marked under section 552.101 of the Government Code.

You next claim that the information contains Texas motor vehicle record information. Section 552.130 of the Government Code excepts from disclosure information that relates to "a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't

Code § 552.130(a)(1), (2). The department must withhold the information you have marked in yellow under section 552.130.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The department must also withhold the information we have marked under section 552.101 in conjunction with common-law privacy. The department must also withhold the information it has marked under section 552.130 of the Government Code.<sup>1</sup> The remaining information must be released.<sup>2</sup>

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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,

---

<sup>1</sup>We note the information being released contains social security numbers. 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. *See* Gov't Code § 552.147.

<sup>2</sup>As you indicate, the information being released contains confidential information to which the requestor has a right of access. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself). Thus, if the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.

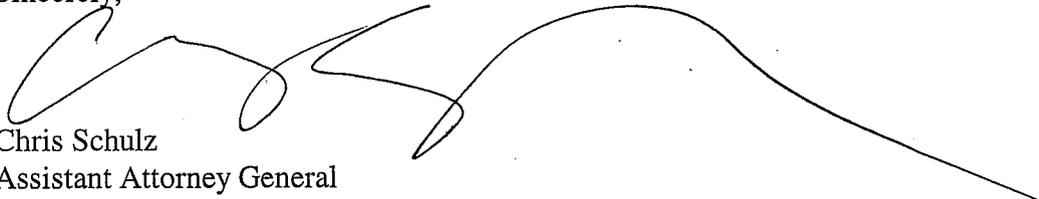
toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge 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,



Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/jb

Ref: ID# 308892

Enc. Submitted documents

c: Mr. Christopher Jeansonne  
Dunham & Rogers, P.C.  
1800 Guadalupe  
Austin, Texas 78701  
(w/o enclosures)