



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 16, 2009

Ms. Caroline E. Cho
Assistant County Attorney
Williamson County Courthouse
405 Martin Luther King, #7
Georgetown, Texas 78626

OR2009-00681

Dear Ms. Cho:

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# 332364.

The Williamson County Attorney's Office (the "county attorney") received two requests from the same requestor for (1) correspondence related to a named individual's campaign; and (2) information related to a named investigator. You state have you released information responsive to the first request and thus, withdraw your request for a ruling pertaining to the first request. You claim that portions of the submitted information, which are responsive to the second request, are excepted from disclosure under sections 552.101, 552.117, 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" and encompasses information that is made confidential by statute. Gov't Code § 552.101. You raise section 552.101 in conjunction with chapter 411 of the Government Code. Criminal history record information ("CHRI") generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *See id.* § 411.083. Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See id.* 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. We note that driving record information is not made confidential by the confidentiality provisions that govern CHRI. *See id.* § 411.082(2)(B) (definition of CHRI does not include driving record information). Upon review, we find that a portion of the submitted information constitutes CHRI generated by TCIC and NCIC. Therefore, the county attorney must withhold this information, which we have marked, pursuant to section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code. However, the remaining information you have marked constitutes driving record information and may not be withheld under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code.

Next, you raise section 552.101 in conjunction with section 1701.454 of the Occupations Code, which makes confidential F-5 forms (Report of Separation of License Holder). Section 1701.454 provides in relevant part that “[a] report or statement submitted to the commission under this subchapter is confidential and is not subject to disclosure under Chapter 552 of the Government Code.” Occ. Code § 1701.454(a). Therefore, we agree that the county attorney must withhold the F-5 forms you have marked pursuant to section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code.¹

Section 552.117(a)(2) of the Government Code excepts from public disclosure the current and former home addresses, home telephone numbers, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code to keep such information confidential.² Gov’t Code § 552.117(a)(2). Accordingly, the county attorney must withhold the information you have marked, and the additional information we have marked, under section 552.117(a)(2) of the Government Code.³

Finally, we address your argument under section 552.130 of the Government Code. Section 552.130 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[.]” *Id.* § 552.130. Therefore, you must

¹As our ruling is dispositive, we need not address your remaining arguments with regard to this information.

²“Peace officer” is defined by Article 2.12 of the Texas Code of Criminal Procedure.

³We note that in Open Records Decision No. 670 (2001), the attorney general determined that all governmental bodies may withhold information that reveals a peace officer’s home address, home telephone number, personal cellular phone number, personal pager number, social security number, and information that reveals whether the individual has family members without the necessity of requesting an attorney general decision as to whether the exception under section 552.117(a)(2) applies.

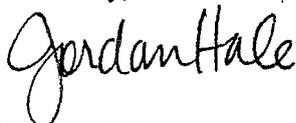
withhold the Texas motor vehicle record information you have marked, as well as the information we have marked, pursuant to section 552.130 of the Government Code.

In summary, the county attorney must withhold (1) the information we have marked pursuant to section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code; (2) the F-5 forms you have marked under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code; (3) the information marked under section 552.117(a)(2) of the Government Code; and (4) the information marked pursuant to section 552.130 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Jordan Hale
Assistant Attorney General
Open Records Division

JH/jb

Ref: ID# 332364

Enc. Submitted documents

cc: Requestor
(w/o enclosures)