



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2013

Mr. Brad Bowman
General Counsel
Texas Department of Licensing and Regulation
P.O. Box 12157
Austin, Texas 78711-2157

OR2013-09176

Dear Mr. Bowman:

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# 489107 (TDLR# 9116).

The Texas Department of Licensing and Regulation (the "department") received a request for the criminal history the requestor submitted with his application. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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." Gov't Code § 552.101. Section 552.101 encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. 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 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* at 10–12. Section 411.083 of the Government Code deems confidential CHRI the Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083.

Section 411.122 of the Government Code authorizes the department to obtain CHRI from DPS. *See id.* § 411.122. However, the department may not release CHRI except as provided by chapter 411. *See id.* §§ 411.083, .084(c) (agency may not confirm existence or nonexistence of CHRI to any person not eligible to receive the information). 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* ORD 565. 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 chapter 411 of the Government Code. Upon review, we agree the information we have marked consists of CHRI obtained by the department from DPS regarding a licensee. Therefore, we find the department must withhold the CHRI we have marked under section 552.101 in conjunction with federal law and chapter 411 of the Government Code.

We note that the department has redacted a social security number in the information being released. Section 552.147 of the Government Code provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act.¹ Gov’t Code § 552.147. However, the social security number you have redacted belongs to the requestor. Section 552.147 protects personal privacy. Thus, the requestor has a right of access to his own information that would otherwise be confidential under privacy principles. *See id.* § 552.023. Therefore, the department may not withhold the requestor’s social security number under section 552.147.

In summary, the department must withhold the CHRI we have marked under section 552.101 in conjunction with federal law and chapter 411 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, toll free, at (888) 672-6787.

Sincerely,



Nneka Kanu
Assistant Attorney General
Open Records Division

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¹Section 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).

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Enc. Submitted documents

c: Requestor
(w/o enclosures)