



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 5, 2014

Mr. R. Brooks Moore
Managing Counsel, Governance
Office of General Counsel
The Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77840-7896

OR2014-09666

Dear Mr. Moore:

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# 525210 (TAMU ORR Nos. 14-203; 14-208).

Texas A&M University (the "university") received two requests for a specified incident report. You claim portions of the submitted information are excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) provides, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *Id.* § 550.065(b). 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) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). In this instance, both requestors have provided the university with two of the requisite pieces of information specified by the statute. Although you seek to withhold this information under sections 552.103 and 552.108, we note a statutory right of access generally prevails over the exceptions to public disclosure under the Act. *See, e.g.*, Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right

of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Accordingly, the university must release the submitted CR-3 report, which we have marked, pursuant to section 550.065(c)(4) of the Transportation Code.

Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). 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), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and provide a representation from the Brazos County Attorney’s Office confirming, the remaining information relates to a pending criminal case, and the release of the remaining information you have marked would interfere with the prosecution of crime. Based upon your representation, the submitted documentation, and our review, we conclude that section 552.108(a)(1) is applicable to the remaining information you have marked. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the university may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code.¹

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”² Gov’t Code § 552.101. This section encompasses information protected by chapter 411 of the Government Code, which makes confidential criminal history record information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center. Gov’t Code § 411.083(a). 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 laws with respect to the CHRI it generates. *See id.* 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* 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

¹As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 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. The submitted information contains a Federal Bureau of Investigation ("FBI") number that constitutes CHRI generated by the FBI. The university must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. You have marked, and we have marked, information subject to section 552.130. We note the first requestor has a right of access to her motor vehicle record information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). Therefore, the university must withhold the information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code; however, the first requestor has a right of access to her own motor vehicle record information, and it may not be withheld from her on the basis of section 552.130.

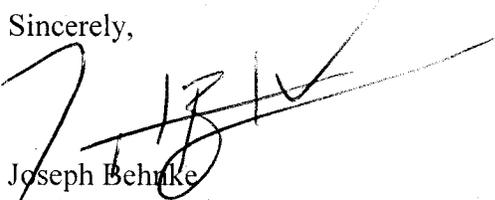
In summary, the university must release the submitted CR-3 accident report pursuant to section 550.065(c)(4) of the Transportation Code. The university may withhold the remaining information you marked under section 552.108(a)(1) of the Government Code. The university must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The university must withhold the information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code; however, the first requestor has a right of access to her own motor vehicle record information. The university must release the remaining information to the requestors.³

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.

³We note 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). We note, however, one of the requestors has a right of access to her own social security number. *See generally id.* § 552.023. Accordingly, the university may withhold the arrestee's social security number from the second requestor under section 552.147, but may not withhold this social security number from the first requestor on that basis.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behrke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 525210

Enc. Submitted documents

c: Requestor
(w/o enclosures)