



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 14, 2015

Ms. Captoria Brown  
Paralegal  
Office of the City Attorney  
City of Carrollton  
1946 East Jackson  
Carrollton, Texas 75006

OR2015-07221

Dear Ms. Brown:

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# 561576 (City ID: 4436, 4437, 4438).

The City of Carrollton (the "city") received three requests from the same requestor for information related to a specified incident. You state you will release some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides in part the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

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<sup>1</sup> Although you do not raise section 552.130 of the Government Code in your brief, we understand you to assert this exception based on your markings.

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2). Section 552.108(a)(1) is generally mutually exclusive of section 552.108(a)(2). Section 552.108(a)(1) is applicable to information pertaining to a pending criminal investigation or prosecution, while section 552.108(a)(2) protects law enforcement records pertaining to a criminal investigation or prosecution that concluded in a final result other than a conviction or a deferred adjudication. A governmental body claiming section 552.108 must reasonably explain the applicability of the exception. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You raise both subsections (a)(1) and (a)(2) of section 552.108. You state Exhibits B and D pertain to a case that was no billed by the grand jury. However, you also state, the prosecutor may resubmit an indictment to a new grand jury at a later time. Based on your conflicting representations, we are unable to determine whether the investigation relates to an ongoing criminal case or a closed case that did not result in conviction or deferred adjudication. Thus, we find the city has failed to demonstrate the applicability of subsection 552.108(a)(1) or subsection 552.108(a)(2) to the submitted information. Therefore, no portion of the information may be withheld under subsection 552.108(a)(1) or subsection 552.108(a)(2).

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. This section encompasses information protected by other statutes, such as 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. *See id.* § 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 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. However, CHRI does not include driving record information. *See id.* § 411.082(2)(B). Upon review, we find that no portion of the submitted information constitutes CHRI for

chapter 411 purposes. Accordingly, none of the submitted information may be withheld under section 552.101 on the basis of chapter 411.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130(a). Section 552.130 protects personal privacy. Thus, as you acknowledge, the requestor has a right of access to his motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Upon review, we find the city must withhold the motor vehicle record information it has marked as well as the information we have marked under section 552.130 of the Government Code. Further, we find the city must also withhold any discernible motor vehicle record information that does not pertain to the requestor in Exhibit D under section 552.130.

The submitted information also contains an e-mail address obtained from the public. Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).<sup>2</sup> Gov't Code § 552.137 (a)-(c). The e-mail address at issue is not excluded by subsection (c). The city must, therefore, withhold the e-mail address we have marked under section 552.137, unless the owner consents to its disclosure.

In summary, the city must the motor vehicle information it has marked and we have marked under section 552.130. The city must also withhold any discernible motor vehicle record information in Exhibit D under section 552.130 of the Government Code. The city must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner consents to its disclosure. The city must release the remaining information.

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.texasattorneygeneral.gov/open/>

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<sup>2</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

[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,

A handwritten signature in cursive script that reads "Katelyn Blackburn-Rader".

Katelyn Blackburn-Rader  
Assistant Attorney General  
Open Records Division

KB-R/akg

Ref: ID# 561576

Enc. Submitted documents

c: Requestor  
(w/o enclosures)