



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 4, 2015

Mr. Vance Hinds
Assistant County and District Attorney
County of Ellis
109 South Jackson
Waxahachie, Texas 75165

OR2015-08610

Dear Mr. Hinds:

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# 562347.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for the requestor's arrest records. You claim the submitted information is 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.

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 section 411.083 of the Government Code, which pertains to criminal history record information ("CHRI"). CHRI generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center is confidential under federal and state law. CHRI means "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." *Id.* § 411.082(2). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI obtained from the NCIC network or other states. *See* 28 C.F.R. § 20.21. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 7 (1990); *see generally* Gov't Code ch. 411 subch. F. Section 411.083 of the Government Code deems confidential CHRI the Texas 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. 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). Thus, 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 Federal Bureau of Investigation ("FBI") numbers constitute CHRI generated by the FBI. We further note active warrant information or other information relating to an individual's current involvement in the criminal justice system does not constitute criminal history information for purposes of section 552.101. *See id.* § 411.081(b). You assert section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code for the submitted information. Upon review, we find the information we have marked consists of CHRI which the sheriff's office must withhold under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law.¹ However, we find you have failed to demonstrate how the remaining information at issue consists of confidential CHRI. Therefore, the sheriff's office may not withhold any of the remaining information at issue under section 552.101 of the Government Code on this basis.

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 personal identification document issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130. Upon review, we agree the information you have marked, in addition to the information we have marked, consists of motor vehicle record information. However, we note section 552.130 protects personal privacy. In this instance, it is not clear whether the information at issue belongs to the requestor. As such, the requestor may have a right of access to this marked information, and we must rule conditionally. *See id.* § 552.023(a) ("A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, to the extent the marked information belongs to the requestor, the requestor has a right of access under section 552.023 to the marked information, and the sheriff's office must release this information to the requestor. To the extent the marked information does not belong to the requestor, the sheriff's office must withhold it under section 552.130.

In summary, the sheriff's office 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 and federal law. To the extent the requestor does not have a right of access under section 552.023, the sheriff's office must withhold the information you have

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

marked, in addition to the information we have marked, under section 552.130 of the Government Code. The sheriff's office must release the remaining information.²

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/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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 562347

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor has a right of access to the information being released. See Gov't Code § 552.023(a); ORD 481 at 4. Thus, if the sheriff's office receives another request for this information from a different requestor, the sheriff's office must seek another ruling from this office.