



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 25, 2015

Ms. Evelyn Kimeu
Staff Attorney
Houston Police Department
1200 Travis
Houston, Texas 77002-6000

OR2015-20093

Dear Ms. Kimeu:

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# 580796 (OR No. 15-4390).

The Houston Police Department (the "department") received a request for a specified report. The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.142 of the Government Code.¹ We have considered the exceptions the department claims and reviewed the submitted information.

Section 552.142 of the Government Code is applicable to records subject to certain deferred adjudications. Section 552.142 provides as follows:

- (a) Information is excepted from [required public disclosure] if an order of nondisclosure of criminal history record information with respect to the information has been issued under Subchapter E-1, Chapter 411 [of the Government Code].
- (b) A person who is the subject of information that is excepted from [required public disclosure] under this section may deny the occurrence of the criminal proceeding to which the information relates and the exception of the information under this section, unless the information is being used against the person in a subsequent criminal proceeding.

¹Although the department does not cite to section 552.142 of the Government Code in its brief to this office, we understand it to raise section 552.142 based on the substance of its arguments.

Act of May 27, 2015, 84th Leg., R.S., ch. 1279, §§ 26-27, 2015 Tex. Sess. Law Serv. 4327, 4338 (Vernon) (to be codified as an amendment to Gov't Code § 552.142). Section 411.0725 of the Government Code authorizes a person placed on deferred adjudication community supervision for certain offenses to petition the court “for an order of nondisclosure,” which prohibits criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication community supervision. *See* Act of May 27, 2015, 84th Leg., R.S., ch. 1279, § 4, 2015 Tex. Sess. Law Serv. 4327, 4328-4329 (Vernon) (to be codified at Gov't Code § 411.0725). A criminal justice agency may only disclose criminal history record information that is the subject of the order to other criminal justice agencies, for criminal justice or regulatory purposes; non-criminal justice agencies listed in section 411.0765(b); or the person who is the subject of the order. *See* Act of May 27, 2015, 84th Leg., R.S., ch. 1279, § 11, 2015 Tex. Sess. Law Serv. 4327, 4332-4334 (Vernon) (to be codified at Gov't Code § 411.0765). The department has provided documentation reflecting an order of nondisclosure was issued pursuant to subchapter E-1, chapter 411 of the Government Code prohibiting the release of the submitted information. Therefore, we find the submitted information is confidential under section 552.142 of the Government Code, and the department must withhold it on that basis.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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

²As our ruling is dispositive, we need not address the department's remaining argument against disclosure.

Ref: ID# 580796

Enc. Submitted documents

c: Requestor
(w/o enclosures)