



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 16, 2015

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

OR2015-24089

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# 587222 (TDLR #PIR-20150942).

The Texas Department of Licensing and Regulation (the "department") received a request for the license information for a specified entity. The department states it has released some information. The department indicates it will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code and social security numbers pursuant to section 552.147(b) of the Government Code.¹ The department claims portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims 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

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). 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. *Id.* § 552.147(b).

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 or subchapter E-1 of the Government Code. Gov’t Code § 411.083(a).

Section 411.093 of the Government Code provides the department is entitled to obtain from DPS CHRI “that relates to a person who is: (1) an applicant for a license, certificate, registration, title, or permit issued by the department; or (2) the holder of a license, certificate, registration, title, or permit issued by the department.” *Id.* § 411.093. Section 411.122 of the Government Code provides the department is entitled to obtain from DPS CHRI “that relates to a person who: (1) is an applicant for a license from the [department]; (2) is the holder of a license from the [department]; or (3) requests a determination of eligibility for a license from the [department].” *See id.* § 411.122(a), (d)(10). However, the department may not release CHRI except as provided by chapter 411. *Id.* §§ 411.083(a), .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. The department states the information it has marked consists of CHRI obtained from DPS regarding an applicant for a license from the department. Based on this representation and our review, we conclude the information at issue consists of confidential CHRI obtained by the department from DPS pursuant to sections 411.093 and 411.122 of the Government Code. Therefore, the department must withhold the information it has marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code. As the department raises no further exceptions against disclosure, the remaining information must be released.

We note the department asks this office to issue a previous determination that would permit the department to withhold CHRI it has obtained from DPS pursuant to sections 411.093 and 411.122 of the Government Code under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code without the necessity of requesting a decision from this office. *See* Gov’t Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). After due consideration, we have

decided to grant the department's request on this matter. Therefore, this letter ruling shall serve as a previous determination under section 552.301(a) authorizing the department to withhold CHRI it has obtained from DPS pursuant to sections 411.093 and 411.122 of the Government Code under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code without the need of requesting a ruling from this office when requests for such information are not made by individuals or entities who are authorized to obtain the information under chapter 411 of the Government Code. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the department need not ask for a decision from this office again with respect to this type of information. *See* ORD 673 at 7.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 587222

Enc. Submitted documents

c: Requestor
(w/o enclosures)