



July 13, 2000

Ms. Tenley Aldredge
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2000-2623

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 137045.

Travis County (the "county") received a request for "a list showing all calls to the Sheriff's Department regarding 13422 Dessau Road for the years 1999 and 2000." You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You argue a portion of the submitted information is excepted from public disclosure under Government Code section 552.108(a)(1). Section 552.108(a)(1) excepts from public disclosure information which would "interfere with the detection, investigation, or prosecution of crime[.]" You explain that most of the submitted documents pertain to criminal investigations that are ongoing. Based upon this representation and a review of the submitted documents, we find that this portion of the submitted information is excepted from disclosure pursuant to section 552.108(a)(1).

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. *See* Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the requested report. Thus, with the exception of the basic front page offense information, you may withhold the requested information from

disclosure based on section 552.108(a)(1). Although section 552.108(a)(1) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007. As section 552.108(a)(1) is dispositive, we need not address your other claims regarding this portion of the information.¹

You claim that the remaining portion of the submitted information, incident report number 99-7153 and the JPS person case list, is excepted from disclosure under section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from required public disclosure "information that is confidential by law, either constitutional, statutory, or by judicial decision." Accordingly, section 552.101 encompasses confidentiality provisions regarding criminal history information. Criminal history record information generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential by statute. 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 law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that the 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 - 411.127. 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 Open Records Decision No. 565 (1990)*. 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.²

¹Generally, basic information may not be withheld from public disclosure under section 552.103. *See Open Records Decision No. 362 (1983)*.

²We note for your future reference that a request for a compilation of criminal information regarding a specific individual implicates the individual's common law privacy right as encompassed by section 552.101. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). In regard to such a request, when the department has responsive records in which the named individual is a possible suspect, the department must withhold this information under section 552.101 in conjunction with common law privacy. *See id.*

We initially note that the JPS person case list is not responsive to the request in that it involves a report made outside the date restrictions given by the requestor. Thus, this document may be withheld from the requestor as non-responsive to the request. The remaining information is not CHRI. Therefore, because your section 552.101 claim is not applicable, the information must be released to the requestor. Prior to the release of this information, however, certain information excepted from disclosure under section 552.130 must be redacted. Section 552.130 of the Government Code governs the release and use of motor vehicle record information. Section 552.130 provides in pertinent part:

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;
- (2) a motor vehicle title or registration issued by an agency of this state;
- or
- (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

The information contains driver's license, license plate, and vehicle identification numbers. This information must be withheld pursuant to section 552.130. For your reference we have marked the relevant numbers to be redacted.

In summary, some of the submitted information is excepted from public disclosure pursuant to section 552.108(a)(1). A portion of the submitted information must be released to the requestor after redacting section 552.130 information. A portion of the information is non-responsive to the request and may be withheld on that basis.

This letter ruling is limited to the particular records at issue in this request and to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/pr

Ref: ID# 137045

Encl. Submitted documents

cc: Mr. Zachariah Wolfe
Fleckman & McGlynn
1800 Bank of America Tower
515 Congress Avenue
Austin, Texas 78701-3503
(w/o enclosures)