



November 20, 2002

Mr. Miles K. Risley
Senior Assistant City Attorney
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR2002-6635

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 172486.

The City of Victoria (the "city") received a request for the arrest report and any video tapes and other information related to a specified arrest. You indicate that a copy of the Victoria County Sheriff's Department arrest report, a copy of the Victoria Police Department's offense report, and the Victoria Police Department's video tape of the arrest are being released to the requestor. You claim, however, that certain responsive information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Criminal history record information ("CHRI") generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential. 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 - .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. The information submitted for our review contains CHRI generated by TCIC and NCIC. Accordingly, this information, which we have marked, is excepted from required public disclosure by section 552.101 of the Government Code. We note that the requestor can obtain his own CHRI from the Department of Public Safety. Gov't Code § 411.083(b)(3).

You also raise section 552.117. Section 552.117(1) excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Section 552.117(2) excepts from disclosure information that reveals a peace officers' home addresses, home telephone numbers, social security numbers, and family information. Upon review of the submitted documents, we are unable to locate any information that is excepted under section 552.117, nor have you identified any such information. Therefore, we conclude that the city may not withhold any of the submitted information under section 552.117.

We also note that some of the submitted information falls under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information relating to a driver's license or motor vehicle title or registration issued by an agency of this state. We have marked the information that must be withheld under section 552.130. However, while Texas drivers' license, license plate, and vehicle registration numbers are normally confidential under section 552.130, section 552.023 of the Government Code gives a person or a person's authorized representative a special right of access to information relating to the person that is protected from public disclosure by laws intended to protect that person's privacy interests. Therefore, in this instance, the requestor has a special right of access to his drivers license number and the motor vehicle title or registration information pertaining to him in the submitted documents. Thus, this information must be released to the requestor.

Similarly, the submitted documents contain the requestor's social security number. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See Open Records Decision No. 622 (1994)*. These amendments make

confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* Although social security numbers may be excepted from disclosure in some cases under section 552.101, the requestor has a special right of access to his own social security number under section 552.023. We have marked an additional social security number that must be withheld from the requestor under section 552.101 if it was obtained or maintained by the city pursuant to any provision of law enacted on or after October 1, 1990.

To summarize, the city must withhold the CHRI we have marked. It must also withhold the information we have marked under section 552.130 as well as the social security number we have marked if the social security number was obtained or maintained by the city pursuant to any provision of law enacted on or after October 1, 1990. The remainder of the submitted information must be released to the requestor.¹

This letter ruling is limited to the particular records 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 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,

¹Future requests to the city for information released to the requestor under section 552.023 from an individual other than the requestor or his authorized representative must be submitted to this office for a ruling.

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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/jh

Ref: ID# 172486

Enc: Submitted documents

c: Mr. Alfonso Martinez
3207 Lone Tree Road
Victoria, Texas 79901
(w/o enclosures)