



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 10, 2006

Mr. John T. Patterson  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2006-01413

Dear Mr. Patterson:

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# 242160.

The City of Waco (the "city") received a request for a list of any and all police calls and police reports for a specified address in a given time period. You claim that 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Criminal history record information ("CHRI") obtained from the National Crime Information Center (the "NCIC") or the Texas Crime Information Center (the "TCIC") 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.”<sup>1</sup> Gov’t Code § 411.082(2). Federal law governs the dissemination of CHRI obtained from the NCIC network. Federal regulations prohibit the release to the general public of CHRI maintained in state and local CHRI systems. See 28 C.F.R. § 20.21(c)(1) (“Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given”) and (c)(2) (“No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself”). The federal regulations allow each state to follow its own individual law with respect to CHRI that it generates. See Open Records Decision No. 565 at 10-12 (1990); see generally Gov’t Code ch. 411 subch. F. Sections 411.083(b)(1) and 411.089(a) of the Government Code 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. See Gov’t Code § 411.089(b). Furthermore, information compiled by a law enforcement agency that relates to a named individual as a possible criminal suspect, arrested person, or defendant implicates the named individual’s common law privacy interests in a manner that the same information in an uncompiled state does not.<sup>2</sup> See *U.S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989); Open Records Decision No. 616 at 2-3 (1993).

You assert that the submitted information constitutes CHRI. We find, however, that none of the submitted information consists of CHRI that is confidential under federal law, subchapter F of chapter 411 of the Government Code, or common law privacy under *Reporters Committee*. We therefore conclude that the city may not withhold any of the submitted information on any of those grounds under section 552.101 of the Government Code.

Next, you state that the submitted information contains Texas motor vehicle record information. Section 552.130 of the Government Code excepts from disclosure information that relates to a driver’s license or motor vehicle title or registration issued by an agency of this state. Gov’t Code § 552.130. Accordingly, the city must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130.

Finally, we note that the submitted information contains a social security number. Section 552.147 of the Government Code provides that “[t]he social security number of a living

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<sup>1</sup>We note that the statutory definition of CHRI does not encompass driving record information maintained by the Texas Department of Public Safety under subchapter C of chapter 521 of the Transportation Code. See Gov’t Code § 411.082(2) (defining “criminal history record information”).

<sup>2</sup>Information must be withheld from the public under section 552.101 in conjunction with common law privacy when the information is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976).

person is excepted from” required public disclosure under the Act. Accordingly, the city must withhold the social security number we have marked on the submitted documents.<sup>3</sup>

In summary, the city must withhold Texas motor vehicle record information we have marked under section 552.130 of the Government Code, and the social security number we have marked under section 552.147 of the Government Code.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep’t of Pub. 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

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<sup>3</sup>We note that 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 under the Act.

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 Office of the Attorney General 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. 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,

A handwritten signature in black ink, appearing to read "Michael A. Lehmann". The signature is fluid and cursive, with the first name being the most prominent.

Michael A. Lehmann  
Assistant Attorney General  
Open Records Division

MAL/sdk

Ref: ID# 242160

Enc. Submitted documents

c: Mr. Joshua W. Carter  
4416 Harlan Avenue  
Waco, Texas 76710  
(w/o enclosures)