



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

July 25, 2006

Ms. Catherine C. Kemp
Records Supervisor
City of Rowlett Police Department
P. O. Box 370
Rowlett, Texas 75030-0370

OR2006-08022

Dear Ms. Kemp:

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# 255143.

The Rowlett Police Department (the "department") received a request for any offense report or call slip involving the requestor, along with five specific call slips, four specific offense reports, and the 9-1-1 call logs for a specific address during a certain time period. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You claim that Exhibits A through O contain criminal history record information ("CHRI") generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC"). Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses section 411.083 of the Government Code. Section 411.083 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. 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. However, the definition of CHRI does not include driving record information. *Id.* § 411.082(2)(B). Upon review, we find that Exhibits A through O contain no CHRI subject to chapter 411 of the Government Code.

You also claim that Exhibits A through T contain information subject to section 261.201 of the Family Code. Section 552.101 encompasses section 261.201(a) of the Family Code, which provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we agree that Exhibits C, F, G, P, Q, S, and T consist of the files, reports, records, communications, or working papers used or developed in an investigation under chapter 261. *See* Fam. Code § 261.001 (defining “abuse” and “neglect” for purposes of Family Code, ch. 261). You have not indicated that the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, we find that Exhibits C, F, G, P, Q, S, and T are confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, you have not explained how the remaining exhibits were used or developed in an investigation under chapter 261, and they may not be withheld on this basis.

You claim that Exhibits A through O are subject to common law privacy. Section 552.101 also encompasses common law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found.*, 540 S.W.2d at 685. The type of information considered intimate

and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has also found that the following types of information are excepted from required public disclosure under common law privacy: personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 545 (1990). We have marked the automobile lien information that must be withheld under common law privacy. However, none of the remaining information is subject to common law privacy, and it may not be withheld on this basis.

You also claim that the suspect information in Exhibit U is subject to section 552.101. However, you have not cited to a statute, nor are we aware of one, that makes the suspect information confidential. Further, none of the information in Exhibit U is subject to common law privacy. Therefore, no part of Exhibit U may be withheld under section 552.101.

We note 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 motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. However, section 552.130 protects individual privacy interests. Thus, the requestor has a right of access to her own Texas driver's license number. *See* Gov't Code § 552.023 (person or person's authorized representative has special right of access to information that is excepted from public disclosure under laws intended to protect person's privacy interest as subject of the information). The department must withhold the remaining Texas motor vehicle record information we have marked.

Finally, we note that the submitted records contain social security numbers. Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the department must withhold the social security numbers we have marked under section 552.147.¹

In summary, Exhibits C, F, G, P, Q, S, and T are confidential pursuant to section 261.201 of the Family Code and must be withheld under section 552.101. We have marked the automobile lien information that must be withheld under common law privacy. The department must withhold the Texas motor vehicle record information we have marked. The

¹We 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.

department must withhold the social security numbers we have marked. The remaining information must be released.²

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 sure that all charges for the information are at or below the legal amounts. Questions or

²Because the records being released contain information relating to the requestor that would be excepted from disclosure to the general public in order to protect the requestor's privacy, the department must request another ruling from our office if it receives a future request for this information from an individual other than this requestor or her authorized representative. See Gov't Code § 552.023(b).

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 'José Vela III', with a long horizontal flourish extending to the right.

José Vela III
Assistant Attorney General
Open Records Division

JV/krl

Ref: ID# 255143

Enc. Submitted documents

c: Ms. Coral Castillo
2523 Ohio Drive #2101
Plano, Texas 75093
(w/o enclosures)