



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 9, 2009

Mr. J. Landon K. Schmidt  
Assistant Criminal District Attorney  
Kaufman County  
100 West Mulberry Street  
Kaufman, Texas 75142

OR2009-01604

Dear Mr. Schmidt:

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# 334384.

The Kaufman County District Attorney's Office (the "district attorney") received a request for all information regarding three cases pertaining to a named individual. You state you have released some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us the information in Exhibit 2 and two related video recordings relate to an ongoing criminal investigation. Based on this representation, we find section 552.108(a)(1) is applicable to the information at issue. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14<sup>th</sup> Dist.] 1975), *writ ref'd n.r.e.per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note, and you acknowledge, that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c).

Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. The district attorney must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which must be released, the district attorney may withhold the information in Exhibit 2 and two related video recordings under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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 Code § 552.101. This section encompasses chapter 411 of the Government Code. Criminal history record information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center 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 laws with respect to the CHRI it generates. See *id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (“DPS”) maintains, except that 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 ORD 565. Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 in conjunction with chapter 411, subchapter F of the Government Code. The information in Exhibit 3, Tab B, and Exhibit 4, Tabs A and B contains CHRI that is confidential under section 411.083. Accordingly, this information, which we have marked, is excepted from required public disclosure by section 552.101 of the Government Code.<sup>2</sup>

You assert a portion of the remaining information is confidential under section 552.130 of the Government Code, which 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 and a personal identification document issued by an agency of this state or a local agency

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<sup>1</sup>As our ruling is dispositive with regard to this portion of the submitted information, we need not address your remaining arguments against disclosure.

<sup>2</sup>As our determination on this issue is dispositive, we do not address your remaining argument to withhold this information.

authorized to issue an identification document. Gov't Code § 552.130(a)(1), (3). Accordingly, you must withhold the Texas driver's license information and personal identification information we have marked under section 552.130 of the Government Code.

Finally, section 552.147 of the Government Code states "[t]he social security number of a living person is excepted from" required public disclosure under the Act.<sup>3</sup> *Id.* § 552.147. Upon review, we agree the district attorney may withhold the social security numbers under section 552.147 of the Government Code. As our determination on this issue is dispositive, we do not address your remaining argument to withhold this information.

In summary, with the exception of basic information, the district attorney may withhold the information in Exhibit 2 and two related video recordings under section 552.108(a)(1) of the Government Code. The district attorney must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The district attorney must withhold the Texas driver's license information and personal identification information we have marked under section 552.130 of the Government Code. The district attorney may withhold the social security numbers under section 552.147 of the Government Code. The remaining information must be released.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Emily Sitton  
Assistant Attorney General  
Open Records Division

EBS/eb

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<sup>3</sup>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. Gov't Code § 552.147(b).

Ref: ID# 334384

Enc. Submitted documents

c: Requestor  
(w/o enclosures)