



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 26, 2009

Mr. Eric Stoebner
Assistant District Attorney
Dallas County
133 North Industrial Boulevard, LB-19
Dallas, Texas 75207-4399

OR2009-02523

Dear Mr. Stoebner:

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# 335939.

The Dallas County District Attorney's Office (the "district attorney") received a request for all information pertaining the requestor's client involving arrests or charges for two specified offenses within the last ten years.¹ You state you have released most of the requested information to the requestor. You claim the submitted 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.

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 is made confidential by statute. Criminal history record information ("CHRI") generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *See id.* § 411.083. 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 id.* 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 the DPS or another criminal justice agency; however, those entities may not release

¹You inform us, and provide documentation showing, that the district attorney contacted the requestor who narrowed his request to exclude attorney work product. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

CHRI except as provided by chapter 411. *See generally id.* §§ 411.090 - .127. Furthermore, any CHRI obtained from the DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with chapter 411, subchapter F. We note that driving record information is not made confidential by the confidentiality provisions that govern CHRI. *See id.* § 411.082(2)(B) (definition of CHRI does not include driving record information). Upon review of the submitted information, we find it contains CHRI that is confidential under chapter 411. Therefore, the district attorney must withhold the information we have marked under section 552.101 in conjunction section 411.083 of the Government Code.² However, none of the remaining submitted information constitutes CHRI generated by the NCIC or TCIC. Thus, chapter 411 is not applicable to this information, and it must be released to the requestor. *See id.* § 411.081(b) (police department allowed to disclose information pertaining to person's current involvement in the criminal justice system).³

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, 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/jb

²We note that an individual can obtain her own CHRI from DPS. Gov't Code § 411.083(b)(3).

³We note some of the information being released is confidential under section 552.130 of the Government Code and is not subject to release to the general public. However, the requestor has a right of access to his client's information as her authorized representative. *See* Gov't Code § 552.023 (person or person's authorized representative has special right of access to records that contain information relating the person that are protected from public disclosure by laws intended to protect that person's privacy interests). Therefore, if the district attorney receives another request for this information from an individual other than this requestor, the district attorney should again seek our decision.

Ref: ID# 335939

Enc. Submitted documents

cc: Requestor
(w/o enclosures)