



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 16, 2009

Ms. Holly C. Lytle
Assistant County Attorney
El Paso County
500 E. San Antonio, Room 503
El Paso, Texas 79901

OR2009-03430

Dear Ms. Lytle:

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# 341336.

The El Paso County Sheriff's Department (the "sheriff") received a request for information regarding 9-1-1 calls involving a named individual during a specified time period. You claim some of 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses chapter 411 of the Government Code, which deems confidential criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. 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." Gov't Code § 411.082(2). 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. Although you indicate that the submitted information contains criminal history information that is confidential under chapter 411, upon review, we find that no portion of the submitted information constitutes CHRI for the purposes of chapter 411. Therefore, the sheriff may not withhold any portion of the information on that basis under section 552.101 of the Government Code.

Next, you have marked information you seek to withhold pursuant to section 552.130 of the Government Code. Section 552.130 provides:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;

(2) a motor vehicle title or registration issued by an agency of this state; or

(3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

Id. § 552.130. Because this exception protects personal privacy, the requestor has a right of access to his client's Texas motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). In this instance, the requestor has a right of access to the submitted Texas motor vehicle record information, and the sheriff may not withhold it under section 552.130 of the Government Code. As you raise no further exceptions to disclosure, the submitted information must be released to the requestor.¹

¹We note the requestor in this instance has a special right of access to some of the information being released. Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). Because such information may be confidential with respect to the general public, if the sheriff receives another request for this information from an individual other than this requestor, the sheriff should again seek our decision.

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/cc

Ref: ID# 341336

Enc. Submitted documents

cc: Requestor
(w/o enclosures)