



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 12, 2010

Ms. Christina R. Sanchez
Assistant County Attorney
El Paso County Courthouse
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2010-02164

Dear Ms. Sanchez:

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# 370291.

The El Paso County District Attorney's Office (the "district attorney") received a request for all information pertaining to a specified case. You state you have released some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.111, 552.130, and 552.136 of the Government Code and privileged under Texas Rule of Civil Procedure 192.5. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the submitted information contains a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that, except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). In this instance, the requestor has provided the district attorney with the requisite pieces of information pursuant to section 550.065(c)(4). We note that you have marked Texas driver's license numbers, motor vehicle registration information, and an insurance policy number that you claim are excepted from disclosure under sections 552.130 and 552.136 of the Government Code.

However, the exceptions found in the Act generally do not apply to information that is made public by other statutes. *See* Open Records Division No. 525 (1989) (statutory predecessor). Therefore, the district attorney must release the accident report form we have marked to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code.

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 laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. 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 at 7 (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 the Department of Public Safety (“DPS”) maintains, except 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. Similarly, 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. Accordingly, the district attorney must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code.¹

Section 552.108(b)(3) of the Government Code provides:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

¹As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

(B) represents the mental impressions or legal reasoning of an attorney representing the state.

Gov't Code § 552.108(b)(3). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state that the submitted information in Attachment F was prepared by an attorney representing the state. You explain that Attachment F contains screening sheets, handwritten attorney notes, e-mails, and letters from the attorney that were made in preparation for litigation. Based on your representations and our review of the information at issue, we find that the information in Attachment F reflects the mental processes or legal reasoning of an attorney representing the state. We therefore conclude that the information in Attachment F is excepted from disclosure under section 552.108(b)(3).²

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). The district attorney must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.³

In summary, the district attorney must release the accident report form, which we have marked, to this requestor pursuant to section 550.065(c)(4) of the Transportation Code. The district attorney must withhold the information we have marked under section 552.101 in conjunction with federal law and chapter 411 of the Government Code. The district attorney may withhold the information in Attachment F under section 552.108(b)(3) of the Government Code. Lastly, the district attorney must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.

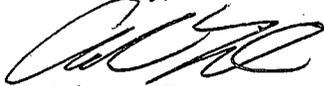
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

³We note this office recently issued Open Record Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers, a copy of a Texas driver's license, Texas license plate numbers, and the portion of a photograph that reveals a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 370291

Enc. Submitted documents

c: Requestor
(w/o enclosures)