



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 11, 2010

Ms, Michelle L. Villarreal  
Assistant City Attorney  
City of Waco - Legal Services  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2010-06615

Dear Ms. Villarreal:

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# 378528 (Waco Reference # LGL-10-233).

The Waco Police Department (the "department") received a request for information pertaining to a specified incident. You state the department has released some of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

You claim the information you have highlighted is excepted under section 552.108 of the Government Code. 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). A governmental body claiming section 552.108 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 state, and provide a memorandum from the department confirming, that the information you have highlighted relates to a pending criminal investigation. Based on your representation, the submitted memorandum, and our review, we conclude that the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law

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<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

enforcement interests that are present in active cases). Thus, the department may withhold the highlighted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

We note that some of the remaining information is subject to section 552.101 of the Government Code, which excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. 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 Texas 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 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. *See id.* § 411.082(2)(B) (term CHRI does not include driving record information). Upon review, we have marked information that consists of CHRI. Therefore, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code and federal law.

Next, we note that some of the remaining information is subject to section 552.130 of the Government Code.<sup>3</sup> Section 552.130 excepts from public disclosure information that relates to a motor vehicle title or registration issued by an agency of this state[.] Gov't Code § 552.130(a)(2). Upon review, we find the department must withhold the Texas motor vehicle record information we have marked in the remaining information under section 552.130 of the Government Code.

In summary, the department may withhold the information you have highlighted under section 552.108(a)(1) of the Government Code. The department must withhold the information we have marked in the remaining information under section 552.101 of the

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against the disclosure of the highlighted information.

<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Government Code in conjunction with chapter 411 of the Government Code and federal law and section 552.130 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, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/jb

Ref: ID# 378528

Enc. Submitted documents

c: Requestor  
(w/o enclosures)