



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 17, 2010

Ms. Jaime Suzanne French
Fulbright & Jaworski, L.L.P.
For City of Schertz
300 Convent Street, Suite 2200
San Antonio, Texas 78205-3792

OR2010-07063

Dear Ms. French:

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# 379510.

The Schertz Police Department (the "department"), which you represent, received a request for information pertaining to a specified arrest. You claim that portions of the submitted information are excepted from disclosure under section 552.101, 552.130, 552.136, and 552.147 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 criminal history records information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. Title 28 of part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. *See* 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 DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. We note that the term CHRI does not include driving record information. *See id.* § 411.082(2)(B). Upon review, we find that the information we have marked consists of CHRI for the purposes of chapter 411. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. However, no portion

of the remaining information consists of CHRI for the purposes of chapter 411. Accordingly, the department may not withhold any of the remaining information under section 552.101 on that basis.

You have marked portions of the remaining information under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). We note that section 552.130 protects personal privacy. In this instance, the requestor is one of the individuals whose privacy interests are implicated. Thus, the requestor has a right of access to his own motor vehicle record information, which we have marked for release, and the department may not withhold this information under section 552.130. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, solely on grounds that information is considered confidential by privacy principles). However, the remaining Texas motor vehicle record information you have marked, which does not belong to the requestor, as well as the additional information we have marked, must be withheld under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136. Accordingly, the department must withhold the credit card numbers you have marked in the remaining information under section 552.136 of the Government Code.¹

Finally, you have marked social security numbers you wish to withhold under section 552.147 of the Government Code. Section 552.147 provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147(a). We note that because the requestor also has a right of access to his own social security number, that information, which we have marked, may not be withheld under section 552.147 and must be released. *See generally id.* § 552.023(b). However, the department may withhold the remaining social security numbers you have marked, as well as the additional social security numbers we have marked, under section 552.147.²

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including certain Texas motor vehicle information under section 552.130 of the Government Code and credit card numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

²We note section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person other than the requestor from public release without the necessity of requesting a decision from this office under the Act.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The department must withhold the Texas motor vehicle information it has marked that does not pertain to the requestor under section 552.130 of the Government Code. The department must withhold the information it has marked under section 552.136 of the Government Code. The department may withhold the marked social security numbers that do not belong to the requestor under section 552.147 of the Government Code. The remaining information must be released.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, toll free, at (888) 672-6787.

Sincerely,



James McGuire
Assistant Attorney General
Open Records Division

JM/dls

Ref: ID# 379510

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note that because the requestor has a special right of access to some of this information that would otherwise be confidential with regard to the general public, the department should again seek a decision from this office if it receives another request for the same information from a different requestor.