



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 23, 2010

Mr. Joseph J. Gorfida, Jr.
Assistant City Attorney
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2010-09240

Dear Mr. Gorfida:

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# 383757 (File No. 10-256).

The Richardson Police Department (the "department") received a request for background information obtained by the department regarding the requestor. You claim that some of 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.

Initially, we note that a portion of the submitted information, which we have marked, does not pertain to the requestor and thus is not responsive to the instant request for information. This decision does not address the public availability of the marked information that is not responsive to the instant request, and the department need not release that information in response to this request.

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. This exception encompasses information that other statutes make confidential. Criminal history record information ("CHRI") obtained from the National Crime Information Center or the Texas Crime Information Center is confidential under federal and state law. 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.”¹ Gov’t Code § 411.082(2). Federal law governs the dissemination of CHRI obtained from the National Crime Information Center network. Federal regulations prohibit the release to the general public of CHRI maintained in state and local CHRI systems. *See* 28 C.F.R. § 20.21(c)(1) (“Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given.”) and (c)(2) (“No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself.”). The federal regulations allow each state to follow its own individual law with respect to CHRI that it generates. *See* Open Records Decision No. 565 at 10-12 (1990); *see generally* Gov’t Code ch. 411 subch. F. Although sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *See id.* § 411.089(b). The department must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code.²

Section 552.101 of the Government Code also encompasses section 411.192 of the Government Code, which governs the release of information maintained by the Texas Department of Public Safety (the “DPS”) concerning the licensure of an individual to carry a concealed handgun. Section 411.192 provides in part:

(a) The [DPS] shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. Information on an individual subject to disclosure under this section includes the individual’s name, date of birth, gender, race, zip code, telephone number, e-mail address, and Internet website address. Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552.

(b) An applicant or license holder may be furnished a copy of disclosable records regarding the applicant or license holder on request and the payment of a reasonable fee.

¹We note that the statutory definition of CHRI does not encompass driving record information maintained by the Texas Department of Public Safety under subchapter C of chapter 521 of the Transportation Code. *See* Gov’t Code § 411.082(2).

²We note that the requestor can obtain his own CHRI from the Texas Department of Public Safety. *See* Gov’t Code § 411.083(b)(3).

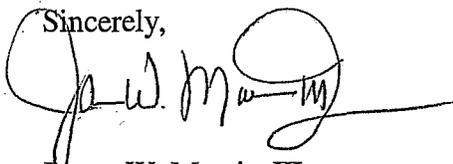
Id. § 411.192(a)-(b). We have marked information in the submitted documents that is related to a concealed handgun license. The department appears to have obtained that information from the DPS. We note that the requestor is the license holder. Therefore, except for the requestor's name, date of birth, gender, race, and zip code, which must be released pursuant to section 411.192(b), the department must withhold the marked information under section 552.101 of the Government Code in conjunction with section 411.192 of the Government Code.

In summary: (1) the department must withhold the CHRI we have marked under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code; and (2) the department also must withhold the information we have marked under section 552.101 in conjunction with section 411.192 of the Government Code, except for the information that must be released to the requestor under section 411.192(b). The department also must release the rest of the submitted information.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 W. Morris, III
Assistant Attorney General
Open Records Division

JWM/tp

³We note that the department would ordinarily be required to withhold some of the information that must be released to this requestor. Should the department receive another request for these same records from another requestor, the department should resubmit these records and request another decision. *See* Gov't Code §§ 552.301(a), .302.

Ref: ID# 383757

Enc. Submitted documents

c: Requestor
(w/o enclosures)