



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 26, 2010

Ms. Yvette Aguilar  
Assistant City Attorney  
City of Corpus Christi  
321 John Sartain  
Corpus Christi, Texas 78401

OR2010-11188

Dear Ms. Aguilar:

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# 388185.

The Corpus Christi Police Department (the "department") received a request for information related to a specified incident. You indicate the department will redact social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You state the department has released some of the requested information. You claim that some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 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. This section 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. *See id.* § 411.083(a). 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

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

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. *See id.* Accordingly, the department must withhold the CHRI you marked under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code and federal law.

You seek to withhold the information you have marked 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 that the information you have marked under section 552.108 pertains to a pending criminal case. Based upon your representation, we conclude that release of the information you marked 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 enforcement interests that are present in active cases). Accordingly, we conclude that the department may withhold the information you marked under section 552.108(a)(1) of the Government Code.

You assert that some of the remaining information is excepted under section 552.130 of the Government Code, which 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). You have marked information you seek to withhold under section 552.130. Further, you state that you have marked information pursuant to Open Records 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 and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, we note the requestor is an insurance claims adjuster

and appears to be an agent of the insurance company providing coverage for the individual listed as the victim in the submitted information.

Therefore, if the requestor is acting as the victim's authorized representative, then the requestor has a right of access to the victim's Texas motor vehicle record information under section 552.023 of the Government Code, and the victim's information may not be withheld from the requestor under section 552.130 of the Government Code. *See id.* § 552.023(a) (person or person's authorized representative has a 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).

To the extent the requestor is not an authorized representative of the victim, the requestor does not have a right of access to the victim's motor vehicle record information, and the department must withhold this information under section 552.130. In either event, the information pertaining to the other individuals must be withheld under section 552.130 of the Government Code.

In summary, the department must withhold the CHRI you marked under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code and federal law. The department may withhold the information you marked under section 552.108(a)(1) of the Government Code. To the extent the requestor is acting as the victim's authorized representative, the requestor has a right of access to the victim's Texas motor vehicle record information pursuant to section 552.023 of the Government Code. To the extent the requestor is not acting as the victim's authorized representative, the department must withhold the victim's Texas motor vehicle record information, as well as the remaining marked information, under section 552.130 of the Government Code.<sup>2</sup>

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,

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<sup>2</sup>We note this requestor may have a special right of access to some of the information being released. *See Gov't Code* § 552.023(a). As noted above this office recently issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license and license plate numbers under section 552.130 of the Government Code without the necessity of requesting an attorney general decision. Accordingly, if the department receives another request for this information from an individual other than one with a right of access under section 552.023, the department is authorized to withhold the submitted Texas driver's license and license plate numbers under section 552.130 without the necessity of requesting an attorney general decision.

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,

A handwritten signature in cursive script, appearing to read "Cindy Nettles".

Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 388185

Enc. Submitted documents

c: Requestor  
(w/o enclosures)