



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 25, 2010

Mr. Albert D. Hammack
Town Attorney
Town of Highland Park
4700 Drexel Drive
Highland Park, Texas 75205

OR2010-12937

Dear Mr. Hammack:

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# 391562.

The Highland Park Department of Public Safety (the "department") received two requests from the same requestor for the police report and audio recordings related to a specified arrest, all communications between or by the two officers involved in the arrest for a specified time period, and information showing the location of the police car involved in the arrest for a specified time period. You state you have redacted Texas driver's license and license plate numbers under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You state you have released some of the requested information. You claim portions of the remaining information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You state that you have redacted social security numbers pursuant to section 552.147 of the Government Code. However, because section 552.147 is based on privacy principles, the requestor has a right of access to her social security number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4

¹This office recently issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including 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.

(1987) (governmental body may not deny access to person to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). We note one of the social security numbers you have redacted belongs to the requestor. Accordingly, the department may not withhold the requestor's social security number from her under section 552.147 of the Government Code.

Section 552.101 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 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 Department of Public Safety ("DPS") maintains, except that DPS may disseminate this information as provided in subchapter F of chapter 411 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. Furthermore, 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 subchapter F of chapter 411 of the Government Code. You state portions of the submitted audio recordings and the information you have highlighted in the submitted offense report consist of CHRI obtained from NCIC and TCIC criminal history checks. Upon review, we find the information we have indicated in the audio recordings and the information we have marked in the offense report are confidential CHRI that the department must withhold under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code.² However, none of the remaining information constitutes CHRI for the purposes of chapter 411 of the Government Code; therefore, the department may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

We note the remaining audio recordings contain a driver's license expiration date. Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license or driver's license issued by a Texas agency. Gov't Code § 552.130(a)(1). The department must withhold the driver's license expiration date we have indicated in the audio recordings under section 552.130 of the Government Code.

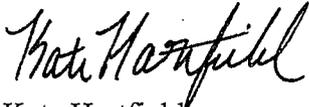
²We note that the requestor can obtain her own CHRI from the Texas Department of Public Safety. *See* Gov't Code § 411.083(b)(3).

In summary, the department must withhold the CHRI we have indicated in the audio recordings and marked in the offense report under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code. The department must withhold the driver's license expiration date we have indicated in the audio recordings under section 552.130 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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/em

Ref: ID# 391562

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the information being released contains confidential information to which the requestor has a right of access. See Gov't Code § 552.023 (person has special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect person's privacy interests). Thus, if the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.