



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 27, 2010

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2010-16316

Dear Ms. Rangel:

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# 398089.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for a probable cause affidavit, bond information, and booking information pertaining to the arrest of the requestors. You claim the submitted information is 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 representative sample of information.¹

Section 552.108(a)(1) of the Government Code 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(a) 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). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983). In this instance, you state the submitted information relates to a case that is currently pending with Whitley County of Kentucky. Where an agency is in the custody of information that would

¹We assume 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 those records contain substantially different types of information than that submitted to this office.

otherwise qualify for exception under section 552.108 as information relating to the pending case of a different law enforcement agency, the custodian of the records may withhold the information only if it provides this office with (1) a demonstration that the information relates to the pending case, and (2) a representation from the entity with the law enforcement interest stating that entity wishes to withhold the information. Thus, this office requires a representation from Whitley County explaining how release of the submitted information will interfere with its pending case. This office has not received any such representation. Accordingly, we conclude the sheriff failed to demonstrate the applicability of section 552.108(a)(1) to the submitted information. Thus, the sheriff may not withhold the submitted information under section 552.108(a)(1).

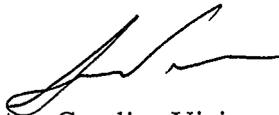
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. Criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. 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 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. 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. Upon review, we find portions of the submitted information, which we marked, consist of CHRI that is confidential under chapter 411. Accordingly, the sheriff must withhold the information we marked under section 552.101 in conjunction with chapter 411 and federal law. However, none of the remaining information constitutes CHRI for purposes of chapter 411. Therefore, the sheriff may not withhold any of the remaining information under section 552.101 on that basis.

In summary, the sheriff must withhold the information we marked under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code and federal law. The sheriff must release the remaining information to the requestors.²

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 398089

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²Because the requestors have special rights of access to information that would ordinarily be confidential, the sheriff would ordinarily be required to again seek a decision from this office upon receipt of another request for the same information from a different requestor. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles). However, this office issued 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 under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Additionally, 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 under the Act. *See* Gov't Code § 552.147. Accordingly, if the sheriff receives another request for this information from an individual other than one with a right of access under section 552.023, the sheriff is authorized to withhold the requestors' Texas driver's license numbers under section 552.130 and the requestors' social security numbers under section 552.147(b) without the necessity of requesting an attorney general decision.