



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2011

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2011-00380

Dear Mr. Mann:

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# 407592 (GCA 10-0894).

The Garland Police Department (the "department") received a request for a specified police report regarding an aggravated sexual assault. Because the requestor is the victim, you state the department will release a copy of the report, with certain redactions, to the requestor in person, upon presentation of proper identification. You claim the information you redacted from the submitted police report is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 release of the information you redacted from the submitted police report will interfere with a pending criminal investigation. Based on this representation and our review, we conclude the release of the redacted information 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curium*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the department may withhold the information marked in red you redacted from the submitted police report under section 552.108(a)(1) of the Government Code.

Next, you have redacted information from the submitted police report under section 552.130 of the Government Code. Section 552.130 excepts from disclosure “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]” Gov’t Code § 552.130. We note you have redacted a Texas driver’s license number and a Texas vehicle license plate number 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. Upon review, we find the department must withhold the additional Texas motor vehicle record information marked in green you redacted from the submitted police report, as well as the information we marked, under section 552.130 of the Government Code.

Lastly, section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101.¹ This exception encompasses information protected by chapter 411 of the Government Code, which deems confidential criminal history record information (“CHRI”). CHRI is defined as “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.” *Id.* § 411.082(2). 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. *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.* at 10-12. 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. *See* Gov’t Code § 411.089(b)(1). Upon review, we find the Federal Bureau of Investigation (“FBI”) number we marked constitutes CHRI which must be withheld pursuant to section 552.101 in conjunction with section 411.083 of the Government Code.

In summary, the department may withhold the information marked in red you redacted from the submitted police report under section 552.108(a)(1) of the Government Code. The

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

department also must withhold the additional Texas motor vehicle record information marked in green you redacted from the police report, as well as the information we have marked, under section 552.130 of the Government Code. Finally, the FBI number we marked must be withheld pursuant to section 552.101 in conjunction with section 411.083 of the Government Code.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/vb

Ref: ID# 407592

Enc. Submitted documents

c: Requestor
(w/o enclosures)