



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 8, 2011

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

OR2011-01912

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# 408492.

The Highland Park Department of Public Safety (the "department") received a request for reports and video or audio relating to the arrest of a named individual on a specified date. You state the department has released most of the requested information, with redactions pursuant to section 552.147 of the Government Code and Open Records Decision No. 684 (2009).<sup>1</sup> You claim other responsive 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 information you submitted.

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. Section 550.065(b) of the Transportation Code states that except as provided by

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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 under the Act. Open Records Decision No. 684 is a previous determination authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including Texas driver's license and license plate numbers under section 552.130 of the Government Code. We note the previous determination granted under section 552.130 in Open Records Decision No. 684 does not encompass vehicle identification numbers.

subsections(c) or (e), accident reports completed pursuant to chapter 550 of the Transportation Code are privileged and confidential. *See* Transp. Code §§ 550.065(b), .064 (officer's accident report). Section 550.065(c)(4) provides for the release of an accident report to a person who provides two of the following three items of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the items of information specified by the statute. *See id.* In this instance, the submitted case report states that in investigating the incident that is the subject of this request for information, the department prepared an accident report. The requestor has provided the department with the date of the incident and the name of a person involved. We note the exceptions to disclosure found in the Act are generally not applicable to information another statute makes public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, if the department maintains an accident report relating to the incident that is the subject of this request that was completed pursuant to chapter 550 of the Transportation Code, it must release the report to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code.<sup>2</sup>

Criminal history record information ("CHRI") obtained from the National Crime Information Center or the Texas Crime Information Center is confidential under section 552.101 of the Government Code in conjunction with 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." 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 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). You have marked information you contend is CHRI. We agree the department must withhold the marked information under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code.

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<sup>2</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Section 552.101 of the Government Code also encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Ind. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Common-law privacy protects certain types of personal financial information. Financial information related only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See Open Records Decision Nos. 600 at 9-12 (1992)* (identifying public and private portions of certain state personnel records), 545 at 4 (1990) (attorney general has found kinds of financial information not excepted from public disclosure by common-law privacy to generally be those regarding receipt of governmental funds or debts owed to governmental entities), 523 at 4 (1989) (noting distinction under common-law privacy between confidential background financial information furnished to public body about individual and basic facts regarding particular financial transaction between individual and public body), 373 at 4 (1983) (determination of whether public's interest in obtaining personal financial information is sufficient to justify its disclosure must be made on case-by-case basis). We have marked personal financial information we find to be highly intimate or embarrassing and of no legitimate public interest. The department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.108 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and have submitted a letter from the department explaining, that release of the submitted video would interfere with a pending criminal prosecution. Based on your representations and the letter, we conclude the department may withhold the video under section 552.108(a)(1) of the Government Code. *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 present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

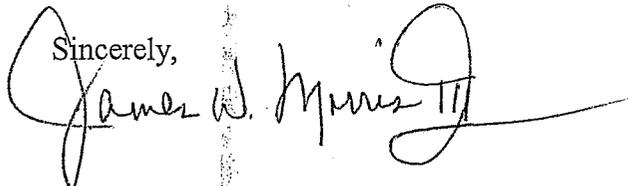
Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See Gov't Code* § 552.130(a)(1)-(2). We note this exception does not encompass out-of-state motor vehicle record information. Thus, the out-of-state driver's license and motor vehicle information you have marked may not be withheld under section 552.130 of the Government Code and must be released. We have marked that information. We agree the department must withhold the Texas motor vehicle information you have marked, along with the additional Texas motor vehicle information we have marked, under section 552.130.

In summary: (1) if the department maintains an accident report relating to the incident that is the subject of this request for information that was completed pursuant to chapter 550 of the Transportation Code, the report must be released to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code; (2) the department must withhold the CHRI you 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; (3) the department must withhold the personal financial information we have marked under section 552.101 in conjunction with common-law privacy; (4) the department may withhold the submitted video under section 552.108(a)(1) of the Government Code; and (5) the department must withhold the Texas motor vehicle information you have marked, along with the additional Texas motor vehicle information we have marked, under section 552.130 of the Government Code, but must release the marked out-of-state driver's license and motor vehicle information.

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, 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/em

Ref: ID# 408492

Enc: Submitted information

c: Requestor  
(w/o enclosures)