



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 25, 2011

Ms. Jennifer C. Cohen
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-4087

OR2011-12316

Dear Ms. Cohen:

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# 432469 (PIR# 11-1770).

The Texas Department of Public Safety (the "department") received a request for information related to a specified arrest. You state that basic information has been released. *See* Gov't Code § 552.108(c) (stating basic information about arrested person, arrest, or crime may not be withheld under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You claim that the submitted information 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 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[.]" *Id.* § 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 have marked the information the department seeks to withhold under section 552.108. You state release of the marked information would interfere with a pending criminal case. Based on your representations, we conclude the department may withhold the marked information under

section 552.108(a)(1). *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 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”¹ Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Title 28, part 20 of the Code of Federal Regulations governs the release of criminal history record information (“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 Texas Department of Public Safety (“DPS”) maintains, except that 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. Upon review, the information we have marked consists of CHRI, and must be withheld under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law.

Next, you marked driver's license and license plate numbers 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 an agency of this state, another state, or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Accordingly, the department must withhold the information you have marked, and the additional driver's license number we have marked, under section 552.130 of the Government Code.

In summary, the department (1) may withhold the marked information that is related to the pending case under section 552.108(a)(1) of the Government Code; (2) must withhold the marked CHRI under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code; and (3) must withhold the marked driver's license and license plate numbers under section 552.130 of the Government

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Code.² The department must release the rest of the submitted information unless it has already done so.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 432469

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note Open Records Decision No. 684 (2009) is a previous determination issued by this office 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.