



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 15, 2011

Mr. Steven Haas
Records Coordinator
Burleson Police Department
225 West Renfro
Burleson, Texas 76028-4261

OR2011-16830

Dear Mr. Haas:

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# 436141.

The City of Burleson (the "city") received a request for the police report pertaining to the search of a specified address on a specified date; the court records and affidavits pertaining to a specified search warrant; and the police report for the arrest of a named individual on a specified date. You state the city has released some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a) 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: (1) 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 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). Where a governmental body has custody of information relating to a pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a

representation from the law enforcement agency that it wishes to have the information withheld. You state that the submitted information relates to a criminal case pending with the Tarrant County District Attorney's Office (the "district attorney"). However, you do not provide us with a representation from the district attorney that the submitted information relates to a pending prosecution with the district attorney, or that the district attorney wishes to withhold this information. Thus, you have failed to demonstrate release of the submitted information would interfere with the detection, investigation, or prosecution of crime. Accordingly, the city may not withhold any of the submitted information under section 552.108(a)(1).

We note the submitted information contains confidential criminal history record information ("CHRI").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 section encompasses laws that make CHRI confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under 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." *Id.* § 411.082(2). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI obtained from the National Crime Information Center network or other states. *See* 28 C.F.R. § 20.21. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 7 (1990); *see generally* Gov't Code ch. 411 subch. F. Section 411.083 of the Government Code deems confidential CHRI the Texas 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). 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. We find the information we have marked constitutes CHRI generated by the Federal Bureau of Investigation, which the city must withhold under section 552.101 in conjunction with federal law and chapter 411 of the Government Code.

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

In summary, the city must withhold the information we have marked as confidential CHRI under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code. The city must release the remaining information.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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

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²We note the information being released contains the requestor's (1) license plate number, driver's license number, and vehicle identification number, which are generally confidential under section 552.130 of the Government Code and (2) social security number, which may generally be withheld under section 552.147 of the Government Code. However, because sections 552.130 and 552.147 protect personal privacy, the requestor has a right to his own information under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130(a)(2), without the necessity of requesting an attorney general decision. We note section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a)(1) without the necessity of requesting a decision under the Act. Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified as Gov't Code § 552.130(c)). Additionally, we note 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. Gov't Code § 552.147(b). Thus, if the city receives another request for this same information from a person who does not have such a right of access, Open Records Decision No. 684 and sections 552.130(c) and 552.147(b) of the Government Code authorize the city to redact the license plate number, driver's license number, and social security number, respectively.

Ref: ID# 436141

Enc. Submitted documents

c: Requestor
(w/o enclosures)