



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 17, 2012

Ms. Pamela N. Burns
Assistant City Secretary
City of Texarkana
P.O. Box 1967
Texarkana, Texas 75504

OR2012-00765

Dear Ms. Burns:

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# 447083.

The Texarkana Police Department (the "department") received a request for information involving four named individuals. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.¹

We first note report number T11-10745 does not involve any of the named individuals and thus is not responsive to the present request for information. Therefore, this decision does not address the public availability of that report, which the department need not release in response to the request.

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 federal and state laws that make criminal history record information ("CHRI") confidential. CHRI means "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations

¹This letter ruling assumes the submitted representative samples of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *Id.* § 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 that 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 not demonstrated the information at issue constitutes CHRI protected by the federal law or subchapter F of chapter 411 of the Government Code. We therefore conclude the department may not withhold any of the responsive information on that basis under section 552.101 of the Government Code..

Section 552.101 of the Government Code also encompasses common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *Id.* at 681-82. A compilation of an individual’s criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual’s privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one’s criminal history). We also find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public.

The present request is for unspecified law enforcement records involving the four named individuals. Thus, this request requires the department to compile the named individuals’ criminal histories and thereby implicates their privacy interests. Therefore, to the extent the department maintains any information that depicts any of the named individuals as a suspect, arrested person, or criminal defendant, we conclude the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note you have submitted information that does not depict any of the named individuals as a suspect, arrested person, or criminal defendant. That information does not implicate the individuals’ privacy interests and may not be withheld under section 552.101 as a compilation of criminal history information.

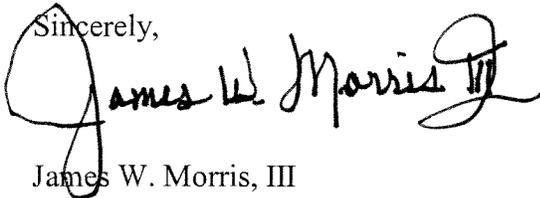
We note some of the submitted information falls within the scope of section 552.130 of the Government Code, which excepts from disclosure information related to a motor vehicle title or registration issued by an agency of this state or another state or country.² See Gov't Code § 552.130(a)(2). We have marked motor vehicle information the department must withhold under section 552.130 of the Government Code.

In summary, the department must withhold (1) any information it maintains that depicts any of the named individuals as a suspect, arrested person, or criminal defendant under section 552.101 of the Government Code in conjunction with common-law privacy and (2) the marked motor vehicle information under section 552.130 of the Government Code. The rest of the responsive information must be released.

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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 447083

Enc: Submitted documents

c: Requestor
(w/o enclosures)

²This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. See Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).