



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 18, 2012

Ms. Molly Cost  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2012-07459

Dear Ms. Cost:

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# 454015 (PIR# 12-0702).

The Texas Department of Public Safety (the “department”) received a request for “Driving While Intoxicated arrest records” of a named officer during a specified time period. We note you have redacted social security numbers under section 552.147(b) of the Government Code.<sup>1</sup> You state some of the requested information has been released. You claim other responsive 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[.]” 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 the release of the information you have marked would interfere with the investigation and prosecution of ongoing criminal cases. Based on your representation, we find section 552.108(a)(1) is generally applicable to the marked information. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th

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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. Gov’t Code § 552.147(b).

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).

We note, however, the information you seek to withhold includes copies of the citations provided to the arrestees. We find you have not demonstrated how the release of this information, which we have marked, would interfere with the detection, investigation, or prosecution of the crime. Thus, the marked citations may not be withheld under section 552.108(a)(1).

As you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. We note basic information does not include motor vehicle information encompassed by section 552.130 of the Government Code. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public *Houston Chronicle*). Thus, with the exception of the basic front page offense and arrest information and the marked citations, you may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Therefore, the department must withhold the information we have marked under section 552.130 of the Government Code.

Finally, we note section 552.101 of the Government Code also is applicable in this instance.<sup>2</sup> Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses federal and state laws that make criminal history record information ("CHRI") confidential.<sup>3</sup> 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

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<sup>2</sup>This office will raise section 552.101 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).

<sup>3</sup>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).

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). We have marked CHRI the department must withhold under section 552.101 of the Government Code in conjunction with federal law and subchapter F of chapter 411 of the Government Code.

In summary, with the exception of the basic front page offense and arrest information and the marked citations, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold (1) the information we have marked under section 552.130 of the Government Code, and (2) 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. The remaining submitted 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\\_or1.php](http://www.oag.state.tx.us/open/index_or1.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# 454015

Enc. Submitted documents

c: Requestor  
(w/o enclosures)