



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 25, 2012

Ms. Valeria M. Acevedo
City Attorney
City of New Braunfels
P.O. Box 311747
New Braunfels, Texas 78131-1747

OR2012-08017

Dear Ms. Acevedo:

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# 454663 (ORR# 2012-141).

The City of New Braunfels (the "city") received a request for a background check on the requestor. You claim the submitted 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 have 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. Section 552.101 encompasses section 411.083 of the Government Code, which pertains to criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that state agencies obtain from the federal government or other states. *See* Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *See id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except DPS may disseminate this

information in accordance with chapter 411, subchapter F of the Government Code.¹ *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 only release CHRI to another criminal justice agency for a criminal justice purpose. *See 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. Furthermore, 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. Upon review, we conclude the city must withhold the CHRI we marked under section 552.101 in conjunction with section 411.083 and federal law.² However, we find no portion of the remaining responsive information constitutes CHRI and none of it may be withheld under section 552.101 in conjunction with chapter 411.

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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/dls

¹Although you assert release of the submitted information is prohibited by section 411.085 of the Government Code, that provision merely provides the penalties for the "Unauthorized Obtaining, Use, or Disclosure of Criminal History Record Information." Gov't Code § 411.085. Section 411.083 is applicable to the dissemination of CHRI.

²We note that an individual may obtain her own CHRI from DPS. *See id.* § 411.083(b)(3).

Ref: ID# 454663

Enc. Submitted documents

c: Requestor
(w/o enclosures)