



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 1, 2013

Ms. Cara Leahy White
Counsel for the City of Blue Mound
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2013-13309

Dear Ms. White:

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# 495003.

The Blue Mound Police Department (the "department"), which you represent, received a request for information pertaining to an appeal hearing, specifically (1) any and all statements given by the requestor's client to the department, (2) the internal affairs file on the specified incident involving the requestor's client, (3) the reports and recommendations of the requestor's client's chain of command regarding the incident and resulting disciplinary action, (4) any letters of reprimand or suspension for any discipline administered to other department officers related to similar incidents in the past three years, (5) any exhibits, witness list or other documents that the department intends to introduce into evidence at the appeal hearing, (6) the department's rules of conduct booklet/manual, (7) the department's personnel policy, (8) the department's standard operating procedures, (9) the Blue Mound City employee handbook, (10) any sign back list used to assure officers and/or employees received any such written directive manual, employee handbook, standard operating procedures, rules and procedures manual, city and/or departmental personnel policy or any revisions, and (11) a named officer's personnel file. You state the department will withhold information pursuant to Open Record Decision No. 684 (2009), section 552.130(c) of the

Government Code and section 552.147(b) of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted a portion of the named officer's personnel file and video recordings. You have not submitted information responsive to the remaining requested information. To the extent the department maintains records responsive to these parts of the request for information that existed on the date the request was received, we assume the department has released it. If the department has not released any such information, it must do so at this time. Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* at 10–12. Section 411.083 of the Government Code deems confidential CHRI the 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) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See id.* § 411.089(b)(1). Upon review, we find the portion of the submitted information which you have marked as Exhibit B-1 constitutes confidential CHRI. The department must withhold Exhibit B-1 under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information without the necessity of requesting an attorney general decision. Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov't Code § 552.130(d), (e). 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. *See* Gov't Code § 552.147(b).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find portions of the video recordings you have labeled as Exhibit B-2 contain information subject to section 552.130 of the Government Code. You state the department does not have the technological capability to redact the motor vehicle record information from the recordings at issue. Accordingly, the department must withhold Exhibit B-2 in its entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

In summary, the department must withhold Exhibit B-1 under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and Exhibit B-2 under section 552.130 of the Government Code.

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.texasattorneygeneral.gov/open_orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/dls

Ref: ID# 495003

Enc. Submitted documents

c: Requestor
(w/o enclosures)