



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 16, 2016

Ms. Stacie S. White  
Counsel for the Town of Flower Mound  
Taylor Olson Adkins Sralla Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2016-18540

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# 622810.

The Flower Mound Police Department (the "department"), which you represent, received a request for all incident reports and 9-1-1 calls made by either of two specified individuals during a specified time period. You inform us the department will release some information to the requestor. You state the department will withhold certain information pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> 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 submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as chapter 411 of the Government Code, which makes confidential criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. *See id.* § 411.083(a). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal

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<sup>1</sup>Open 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.

government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual laws with respect to the CHRI it generates. *See id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (“DPS”) maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F, or subchapter E-1 of the Government Code. *See Gov’t Code* § 411.083(a). 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). 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. Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 in conjunction with chapter 411, subchapter F, of the Government Code. We note CHRI does not include driving record information. *See id.* § 411.082(2)(B). Upon review, we find a portion of the submitted information, which we have marked, consists of CHRI that is confidential under section 411.083. Thus, the department must withhold the marked information under section 552.101 in conjunction with section 411.083 of the Government Code. However, we find you have not demonstrated any portion of the remaining information consists of CHRI for purposes of chapter 411 of the Government Code, and the department may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

You state the department will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code.<sup>2</sup> Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. Upon review, we find portions of the submitted information consist of motor vehicle record information. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her client’s own motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Further, because the right of privacy lapses at death, motor vehicle record information that pertains solely to deceased individuals may not be withheld under section 552.130. *See Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ.

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<sup>2</sup>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 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 id.* § 552.130(d), (e).

App.—Texarkana 1979, writ ref'd n.r.e.); *see also* Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 (1981) (“the right of privacy is personal and lapses upon death”). Accordingly, the department may not withhold any portion of the remaining information under section 552.130 of the Government Code.

In summary, the department must withhold the marked information under section 552.101 in conjunction with section 411.083 of the Government Code. The remaining information must be released.<sup>3</sup>

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](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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/dls

Ref: ID# 622810

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note the requestor has a right of access to some of the information being released in this instance. *See* Gov’t Code § 552.023(a); ORD 481 at 4. Thus, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.