



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 22, 2016

Ms. T. Trisha Dang
Assistant City Attorney
City of Sugar Land
P.O. Box 110
Sugar Land, Texas 77487-0110

OR2016-21473

Dear Ms. Dang:

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# 627324.

The City of Sugar Land (the "city") received a request for information pertaining to a specified incident involving the requestor. 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.

Former section 552.142 of the Government Code is applicable to records of certain deferred adjudications.¹ The submitted information includes the Texas Department of Public Safety's Notice of Order of Nondisclosure for the information at issue, which reflects an order of nondisclosure was issued prior to September 1, 2015, pursuant to former section 411.081(d) of the Government Code, prohibiting the release of the information at issue. Although section 552.142 of the Government Code was amended in 2015 by the 84th Legislature, an order of nondisclosure issued pursuant to former section 411.081(d) prior to September 1, 2015, is subject to the former version of section 552.142, which was continued

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

in effect for that purpose. *See* Act of May 27, 2015, 84th Leg., R.S., ch. 1279, § 32, Tex. Gen. Laws 4327, 4339. Former section 552.142 provides as follows:

(a) Information is excepted from [required public disclosure] if an order of nondisclosure with respect to the information has been issued under [former] Section 411.081(d) [of the Government Code].

(b) A person who is the subject of information that is excepted from [required public disclosure] under this section may deny the occurrence of the arrest and prosecution to which the information relates and the exception of the information under this section, unless the information is being used against the person in a subsequent criminal proceeding.

Act of June 1, 2003, 78th Leg., R.S., ch. 1236, § 5, 2003 Tex. Gen. Laws 3502, 3504, *amended by* Act of May 27, 2015, 84th Leg., R.S., ch. 1279, §§ 26-27, Tex. Gen. Laws 4327, 4338 (current version at Gov't Code § 552.142). We note although Senate Bill 1902 amended and redesignated former subsections 411.081(d) through (i) of the Government Code, the former versions of these subsections were continued in effect for that purpose. *See* Act of May 27, 2015, 84th Leg., R.S., ch. 1279, § 32, Tex. Gen. Laws 4327, 4339. Former section 411.081(d) of the Government Code authorizes a person placed on deferred adjudication for certain offenses to petition the court “for an order of nondisclosure,” which prohibits criminal justice agencies from disclosing to the public criminal history record information (“CHRI”) related to the offense giving rise to the deferred adjudication. *See* Act of June 1, 2003, 84th Leg., R.S., ch. 1236, § 3, Tex. Gen. Laws 3502, 3503, *amended by* Act of May 27, 2015, 84th Leg., R.S., ch. 1279, § 4, Tex. Gen. Laws 4327, 4328 (current version at Gov't Code § 411.0725(b)-(e)). Under this provision, a criminal justice agency may only disclose CHRI that is the subject of the order to other criminal justice agencies; for criminal justice or regulatory purposes; non-criminal justice agencies listed in former section 411.081(i); or the person who is the subject of the order. *See* Act of June 1, 2003, 84th Leg., R.S., ch. 1236, § 3, Tex. Gen. Laws 3502, 3503 (amended 2015). We note, for the purposes of former section 411.081, CHRI is defined as “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.” *See* Gov't Code § 411.082(2). Thus, in this instance, the submitted information contains CHRI.

Upon review, we find the submitted information is subject to the order of nondisclosure and generally must be withheld under former section 552.142. However, we note the requestor is the subject of the order. Thus, pursuant to section 411.081(d), the city is permitted to release the CHRI to the requestor. The city must withhold the remaining information under former section 552.142. If the city chooses not to release the CHRI of the requestor, then it must withhold this information under former section 552.142. As our ruling is dispositive, we need not consider your arguments against disclosure.

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,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive, flowing style.

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/bhf

Ref: ID# 627324

Enc. Submitted documents

c: Requestor
(w/o enclosures)