



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 13, 2015

Mr. Galen Gatten
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Austin, Texas 76102

OR2015-14217

Dear Mr. Gatten:

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# 571608 (Fort Worth PIR No. W042255).

The Fort Worth Police Department (the "department") received a request for a specified police report. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

We note the submitted information consists of a completed investigation subject to section 552.022(a)(1) of the Government Code. Section 552.022(a) provides, in relevant part, the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

¹Although you do not raise sections 552.101, 552.130, and 552.147 of the Government Code in your brief, we understand you to raise those exceptions based on your markings in the submitted information.

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). You seek to withhold this information under section 552.103 of the Government Code. However, section 552.103 is a discretionary exception and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, this information may not be withheld under section 552.103 of the Government Code. However, because section 552.101 of the Government Code protects information made confidential under law and section 552.130 of the Government Code makes information confidential for purposes of section 552.022, we will address the applicability of these sections to the submitted information.²

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 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. Gov't Code § 411.083(a); *see also id.* § 411.082 (defining CHRI). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. *See* 28 C.F.R. § 20.21; 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* ORD 565. Section 411.083 of the Government Code deems confidential CHRI that the Texas Department of Public Safety (“DPS”) maintains, except that 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) 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 generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* ORD 565. Furthermore, any CHRI obtained from DPS any other criminal justice agency must be withheld under section 552.101 of the Government

²Section 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. Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision.

Code in conjunction with Government Code chapter 411, subchapter F. Upon review, we find the Federal Bureau of Investigation ("FBI") numbers you have marked, and the FBI numbers we have marked, constitutes CHRI that is confidential under section 411.083. Thus, the department must withhold the FBI numbers you have marked, and the FBI numbers we have marked, under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law.

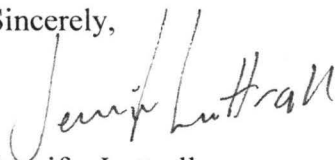
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the department must withhold the motor vehicle record information you have marked, and we have marked, under section 552.130 of the Government Code.

In summary, the department must withhold the FBI numbers you have marked, and the FBI numbers we have marked, under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law. The department must withhold the motor vehicle record information you have marked, and we have marked, under section 552.130 of the Government Code. The department must release the remaining information.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 571608

Enc. Submitted documents

c: Requestor
(w/o enclosures)