



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

June 17, 2016

Mr. Jeffrey Giles  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2016-13850

Dear Mr. Giles:

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# 614788 (GC No. 23266).

The City of Houston (the "city") received a request for information regarding individuals who passed background checks conducted by transportation network companies but failed background checks performed by the city during a specified time. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note and you acknowledge, some of the submitted information may be the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2015-02916A (2015) and 2015-13240 (2015). In response to Open Records Letter Nos. 2015-02916A and 2015-13240, Rasier, L.L.C., has filed lawsuits against our office. *See Rasier LLC v. Ken Paxton, Attorney Gen. of Tex.*, No. D-1-GN-15-001098 (53rd Dist. Ct., Travis County, Tex.); *Rasier LLC v. Ken Paxton, Attorney Gen. of Tex.*, No. D-1-GN-15-002860 (126th Dist. Ct., Travis County, Tex.). Accordingly, with regard to the information at issue in these lawsuits, we will allow the trial courts to resolve the issue

of whether the information that is the subject of the pending litigation must be released to the public.<sup>1</sup>

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 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 section 411.083 does not apply to active warrant information or other information relating to one’s current involvement with the criminal justice system. *See id.* § 411.081(b) (police department allowed to disclose information pertaining to person’s current involvement in the criminal justice system). Further, CHRI does not include driving record information. *See id.* § 411.082(2)(B). Upon review, we find the submitted information consists of CHRI that is confidential under section 411.083. Thus, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.<sup>2</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.

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<sup>1</sup>As we are able to make this determination, we need not address the submitted arguments against disclosure of this information.

<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

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,



Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MJC/akg

Ref: ID# 614788

Enc. Submitted documents

c: Requestor  
(w/o enclosures)