



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 1, 2019

Ms. Brandi Henderson
Custodian of Records
Kaufman County Sheriff's Office
P.O. Drawer 849
Kaufman, Texas 75142

OR2019-03076

Dear Ms. Henderson:

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# 749631.

The Kaufman County Sheriff's Office (the "sheriff's office") received a request for audio recordings of dispatch communications during a specified time period. The sheriff's office states it has released some of the requested information in response to a prior request from the same requestor. The sheriff's office claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exceptions the sheriff's office claims 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 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

¹We note the sheriff's office did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). Nonetheless, because the exceptions the sheriff's office claims can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352. Further, although the sheriff's office does not cite to section 552.101 of the Government Code in its brief, we understand the sheriff's office to raise this exception based on the substance of its argument.

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 some of the submitted information, which we noted, consists of CHRI that is confidential under section 411.083. Thus, the sheriff’s office must withhold the information we noted under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. However, we find the sheriff’s office has not demonstrated any portion of the remaining information consists of CHRI for purposes of chapter 411 of the Government Code, and the sheriff’s office may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses information protected by section 730.004 of the Transportation Code, which provides “an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.” Transp. Code § 730.004. “Personal information” means “information that identifies a person,” and includes a person’s photograph, social security number, driver identification number, name, address but not zip code, telephone number, or medical and disability information. *Id.* § 730.003(6). The Texas Department of Public Safety (“DPS”) is an “agency” for purposes of chapter 730. *See id.* § 730.003(1) (“agency” is state agency that compiles or maintains motor vehicle records). The sheriff’s office states some of the remaining information was obtained by the sheriff’s office from DPS. *See id.* § 730.007(a)(2)(A)(i) (personal information may be disclosed to government agency in carrying out its functions). An authorized recipient of personal information may not re-disclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). Accordingly, the sheriff’s office must withhold the driver identification numbers, names, and addresses but not zip codes of the individuals within the information we noted under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code. However, none of the remaining information is confidential under section 730.004 or 730.013 of the Transportation Code and the sheriff’s office may not withhold the remaining information under section 552.101 of the Government Code on that basis.

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* Gov’t Code § 552.130. We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his own motor vehicle

record information under section 552.023 of the Government Code. *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). Therefore, with the exception of any motor vehicle record information belonging to the requestor the sheriff's office must withhold the motor vehicle record information we noted under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold the information we noted under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The sheriff's office must withhold the driver identification numbers, names, and addresses but not zip codes of the individuals within the information we noted under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code. With the exception of any motor vehicle record information belonging to the requestor the sheriff's office must withhold the motor vehicle record information we noted under section 552.130 of the Government Code. The sheriff's office must release the remaining information to this requestor.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

Ref: ID# 749631

Enc. Submitted documents

c: Requestor
(w/o enclosures)