ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 6, 2013

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2013-07470

Dear Ms. Graham:

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# 490881.

The Mesquite Police Department (the "department") received a request for information pertaining to the arrest of a named individual. You state the department will redact some information pursuant to Open Records Letter No. 2012-07334 (2012).[1] You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. This exception encompasses information other statutes make confidential, including section 411.083 of the Government Code which pertains to criminal history record information ("CHRI"). CHRI generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential under federal and state law. CHRI means "information collected about a person by a criminal justice agency that

[1]Open Records Letter No. 2012-07334 is a previous determination issued to the department authorizing it to withhold FBI numbers under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code and federal law, without requesting a ruling from this office.

consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." *Id.* § 411.082(2). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI obtained from the NCIC network or other states. *See* 28 C.F.R. § 20.21. Federal regulations prohibit the release to the general public of CHRI maintained in state and local CHRI systems. *See* 28 C.F.R. § 20.21(c)(2) ("No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself.") The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 7 (1990); *see generally* Gov't Code ch. 411 subch. F. Section 411.083 of the Government Code deems confidential CHRI the Texas Department of Public Safety ("DPS") maintains, except 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). Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. You state the information you have marked under section 552.101 of the Government Code was obtained by the department from the NCIC and TCIC networks. Based on your representations, we agree the marked information constitutes CHRI and must be withheld under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information that relates to:

> (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
>
> (2) a motor vehicle title or registration issued by an agency of this state or another state or country[.]

Id. § 552.130(a)(1)-(2). Upon review, we find the department must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147(a). Therefore, the department may withhold the social security number you have marked under section 552.147(a) of the Government Code.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code. The department must withhold the motor vehicle record information you and we have

marked under section 552.130 of the Government Code. The department may withhold the social security number you have marked under section 552.147 of the Government Code. The department must release the remaining information.

You also ask this office to issue a previous determination that would permit the department to withhold motor vehicle record information under section 552.130(a)(2) of the Government Code without the necessity of requesting a decision under section 552.301 of the Government Code. We decline to issue such a previous determination at this time. Accordingly, 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Paige Lay

Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 490881

Enc. Submitted documents

cc: Requestor
(w/o enclosures)