



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 14, 2012

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

OR2012-07105

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# 454267.

The Mesquite Police Department (the "department") received a request for information pertaining to a specified incident. You claim that 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.

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 section encompasses laws that make criminal history record information ("CHRI") confidential. 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 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 National Crime Information Center network or other states. *See* 28 C.F.R. § 20.21. 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 indicate the information you have marked was obtained from the NCIC and TCIC databases. Based upon your representations and our review, we conclude the department must withhold the CHRI you have marked under section 552.101 in conjunction with federal law and chapter 411 of the Government Code.¹

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. *Id.* § 552.130(a). We find the department must withhold the information you have marked under section 552.130 of the Government Code.

In summary, the department must withhold the CHRI you have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code. The department must withhold the information you have marked under section 552.130 of the Government Code. The department must release the remaining information.²

You ask this office to issue a previous determination that would permit the department to withhold CHRI under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code, without the necessity of requesting a decision from this office. *See id.* § 552.301(a) (allowing governmental body to withhold information

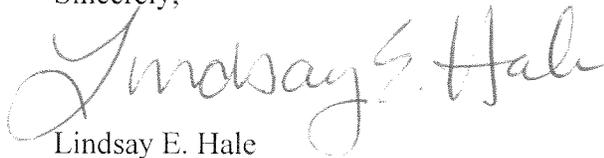
¹We note that an individual may obtain his own CHRI from DPS. *See* Gov't Code § 411.083(b)(3).

²We note the information to be released includes the requestor's driver's license number, which the department would be required to withhold from the general public under section 552.130(a)(1) of the Government Code. Because section 552.130 protects personal privacy, the requestor has a right of access to her driver's license number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a). We note section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a)(1) without the necessity of requesting a decision under the Act. *See id.* § 552.130(c). Thus, if the department receives another request for this same information from a person who would not have a right of access to the requestor's driver's license number, section 552.130(c) authorizes the department to redact her driver's license number. We further note the information being released contains the requestor's social security number. Section 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. The requestor, however, has a right of access to her own social security number. *See generally id.* § 552.023(b).

subject to previous determination); *see also* Open Records Decision No. 673 (2001). 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,

A handwritten signature in cursive script that reads "Lindsay E. Hale". The signature is written in dark ink and is positioned above the typed name.

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 454267

Enc. Submitted documents

c: Requestor
(w/o enclosures)