



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 30, 2012

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

OR2012-08242

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# 459074.

The Mesquite Police Department (the "department") received a request for information pertaining to a named individual. You state the department will redact social security numbers pursuant to section 552.147(b) of the Government Code.¹ You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you seek to an FBI number under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. In Open Records Letter No. 2012-07334 (2012), this office issued a previous determination to the department authorizing the department to withhold FBI numbers under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code without requesting a decision from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under

¹Section 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. *See* Gov't Code § 552.147(b).

section 552.301(a) of the Government Code). Accordingly, the department must withhold the marked FBI number in accordance with the previous determination issued to the department in Open Records Letter No. 2012-07334.

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 laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center 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. Upon review, we find the information you have marked constitutes CHRI which the department must withhold under section 552.101 in conjunction with section 411.083 of the Government Code.

Section 552.130 of the Government Code provides, in relevant part:

(a) Information is excepted from the requirements of Section 552.021 if the information 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; or
- (3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

Gov't Code § 552.130. Upon review, we agree the department must withhold the driver's license number you have marked under section 552.130 of the Government Code. However, you have also marked a number under section 552.130 identified in the documents as "SID" and "State ID Number." This number does not consist of information relating to a personal identification document issued by a Texas agency, or an agency of another state or country or a local agency authorized to issue an identification document for purposes of section 552.130, and it may not be withheld under section 552.130.

Section 552.136 of the Government Code states "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136. Section 552.136(a) defines "access device" as "a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to... obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument." *Id.* § 552.136(a). We note check numbers are not access device numbers for purposes of section 552.136. Thus, the department may not withhold the check numbers you have marked, which we have marked for release, under section 552.136. However, the department must withhold the account numbers you have marked under section 552.136 of the Government Code.

In summary, the department must withhold the marked FBI number in accordance with the previous determination issued to the department in Open Records Letter No. 2012-07334. The department must withhold the CHRI you have marked under section 552.101 in conjunction with section 411.083 of the Government Code. The department must also withhold the information you have marked under section 552.130 of the Government Code. With the exception of the check numbers we have marked for release, the department must withhold the information you have marked under section 552.136 of the Government Code. The remaining information must be released.

You also ask this office to issue a decision that would permit the department to withhold CHRI obtained from the NCIC and TCIC networks under section 552.101 of the Government Code without the necessity of asking this office for a decision. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (previous determinations). We decline to issue such a decision at this time. 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 "Paigelay".

Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 459074

Enc. Submitted documents

cc: Requestor
(w/o enclosures)