



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2012

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

OR2012-15932

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# 471590.

The Mesquite Police Department (the "department") received a request for a specified arrest report. You claim some of 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 information protected by other statutes, such as section 58.007 of the Family Code. Section 58.007 provides, in pertinent part, as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under [the Act], or other law.

Fam. Code § 58.007(c), (e), (j). Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997 are confidential under section 58.007. *See id.* § 51.03(a) (defining "delinquent conduct"). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). The submitted information involves juveniles engaged in delinquent conduct that occurred after September 1, 1997. As such, this information is subject to section 58.007(c). However, you state, and the submitted information reflects, the requestor is a parent of one of the juveniles. Therefore, in accordance with section 58.007(e), the department may not use section 58.007(c) to withhold this information from this requestor. *See id.* § 58.007(e). However, section 58.007(j)(1) provides that any identifiable information about a juvenile suspect, offender, victim, or witness who is not the requestor's child must be redacted. *Id.* § 58.007(j)(1). As such, the department must withhold the identifying information of the other juvenile offenders you have marked under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Additionally, section 58.007(j)(2) provides that

information subject to any other exception to disclosure under the Act or law must be redacted. *Id.* § 58.007(j)(2). Thus, we will address your other arguments for portions of the remaining information.

Section 552.101 of the Government Code also 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." Gov't Code § 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 state the information you have marked contains a Federal Bureau of Investigation ("FBI") number that constitutes CHRI generated by the FBI and other information that was obtained pursuant to the department's "policy and practice of obtaining criminal history through the NCIC and TCIC." Based upon your representations and our review, we conclude the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code.

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by an agency of this state or another state or country. *Id.* § 552.130(a)(1)-(2). Accordingly, the department must withhold the information you have marked under section 552.130 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 (1) section 58.007(j)(1) of the Family Code and (2) chapter 411 of the Government Code and federal law. The department

must also withhold the information you have marked under section 552.130 of the Government Code. The remaining information must be released.¹

You also ask this office to issue a previous determination that would permit the department to withhold, without the necessity of requesting a decision from this office, (1) CHRI under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code, and (2) information pertaining to a motor vehicle registration under section 552.130(a)(2) of the Government Code. We decline to issue either 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 471590

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note this requestor has a right of access to the information being released, which is confidential with respect to the general public. Gov't Code § 58.007(e). Therefore, if the department receives another request for this information from an individual other than this requestor, the department must again seek a ruling from this office.