

December 17, 2012

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

OR2012-20198

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# 474088.

The Mesquite Police Department (the “department”) received a request for reports involving a named individual. You state the department will redact some information pursuant to Open Records Letter Nos. 2011-15075 (2011) and 2012-01375 (2012).¹ You also state the department will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code and Open Records Decision No. 684 (2009).² You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of

¹Open Records Letter No. 2011-15075 is a previous determination issued to the department authorizing the department to withhold the originating telephone numbers of 9-1-1 callers furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code, without requesting a decision from this office. Open Records Letter No. 2012-01375 is a previous determination issued to the department authorizing the department to withhold information in a call sheet that reveals the existence of a motor vehicle lien under section 552.101 of the Government Code in conjunction with common-law privacy, without requesting a decision from this office.

²Section 552.130(c) of the Government Code authorizes governmental bodies to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Open Records Decision No. 684 permits a governmental body to redact Texas license plate numbers, which are made confidential by section 552.130(a)(2), without requesting an attorney general decision.

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.” 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 constitutes CHRI 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 section 411.083 of the Government Code.

Section 552.130(a)(2) of the Government Code excepts from public disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. *Id.* § 552.130(a)(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 (1) section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and (2) section 552.130 of the Government Code. The remaining information must be released.

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,

Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 474088

Enc. Submitted documents

c: Requestor
(w/o enclosures)