May 16, 2012

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

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# 453982.

The Mesquite Police Department (the “department”) received a request for a record related to a specified arrest incident. You claim portions of the submitted information are 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. Section 552.101 encompasses laws that make criminal history record information ("CRRI") confidential. CRRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. CRRI 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 CRRI 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 CRRI 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 CRRI 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 CRRI; however, a criminal justice agency may not release CRRI 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 Federal Bureau of Investigation ("FBI") number generated by the FBI,
which 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 552.147 of the Government Code provides “[t]he social security number of a living
person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147(a).
The department may withhold the social security number you have marked under
section 552.147 of the Government Code.¹

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 subchapter F
of chapter 411 of the Government Code. The department must also withhold the information
you have marked under section 552.130 of the Government Code. The department may

¹We note 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.
withhold the social security number you have marked under section 552.147 of the Government Code. The remaining information must be released.

Finally, you ask this office to issue a previous determination permitting the department to withhold FBI numbers under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. See Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). After due consideration, we have decided to grant your request on this matter. Therefore, this letter ruling shall serve as a previous determination under section 552.301(a) that the department must withhold FBI numbers under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code without the need of requesting a ruling from this office when requests for such numbers are not made by individuals or entities who are authorized to obtain them under chapter 411 of the Government Code. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the department need not ask for a decision from this office again with respect to this type of information. See ORD 673 at 7.

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_oirl.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,

Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

Ref: ID# 453982

Enc. Submitted documents

c: Requestor (w/o enclosures)