



July 17, 2002

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

OR2002-3926

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 165933.

The Mesquite Police Department (the "department") received a request for all information regarding complaints made regarding a particular address from May 30, 1998 through July 15, 2001. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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." Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads 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 Subchapter B.

Some of the information at issue involves juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, such information, which you have marked, is confidential pursuant to section 58.007(c) of the Family Code.

You ask whether the requestor has a special right of access to this information under section 552.023 of the Government Code. Section 552.023 states that a person or a person's authorized representative has a special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect the person's privacy interest. Juvenile law enforcement records are governed by section 58.007 and its release provisions, not section 552.023. Thus, the requestor does not have a special right of access to the information you have marked under section 552.023. The department must therefore withhold this information from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

You also contend that portions of the submitted information are confidential under sections 771.061 and 772.318 of the Health and Safety Code. In Open Records Decision No. 649 (1996), which interpreted section 772.318 of the Health and Safety Code, we examined several confidentiality provisions in chapter 772 of the Health and Safety Code. To the extent that the portion of the information containing the marked telephone number involves an emergency 9-1-1 district established in accordance with chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts, the information may be confidential under chapter 772. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier. *See* Open Records Decision No. 649 (1996). Section 772.118 applies to emergency communication districts for counties with a population over two million. Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 9-1-1 telephone numbers and addresses. *See* Health & Safety Code §§ 772.401, *et seq.* Thus, if the emergency communication district here is subject to section 772.118, 772.218, or 772.318, the originating telephone numbers and addresses, which you have marked, are protected from public disclosure under section 552.101 as information deemed confidential by statute.

To summarize: (1) we agree that the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code; and (2) the department must withhold the highlighted addresses and telephone numbers to the extent the emergency communication district at issue is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code. The remaining information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Karen A. Eckerle  
Assistant Attorney General  
Open Records Division

KAE/sdk

Ref: ID# 165933

Enc: Submitted documents

c: Ms. Johanna M. West  
4855 Palos Verdes  
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(w/o enclosures)