



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 7, 2003

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

OR2003-7097

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# 188947.

The Mesquite Police Department (the "Department") received a request for all information relating to a specified address from January 1, 1988 through the present. You inform us that the City of Mesquite (the "City") Building Inspection Department has provided some responsive records to the requestor. You assert that portions of the remaining information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We reviewed the information you submitted and considered the exceptions you claim.

First, we address your arguments under section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions of other statutes such as section 58.007 of the Family Code. 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.

Fam. Code § 58.007(c). The submitted law enforcement records in Exhibit 2 indicate a juvenile suspect allegedly engaged in delinquent conduct that occurred after September 1, 1997. Based on our review of Exhibit 2, we find no evidence that any of the exceptions in section 58.007 apply. Therefore, section 58.007(c) of the Family Code makes this information confidential. Thus, we conclude the Department must withhold Exhibit 2 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Next, you assert Chapters 771 and 772 of the Health and Safety Code govern a portion of the submitted information in Exhibit 3. Section 771.061(a) of the Health and Safety Code makes confidential certain information that telephone companies and the United States Postal Service furnish a governmental entity that provides computerized 9-1-1 emergency services. *See generally* Open Records Decision No. 661 (1999). Chapter 772 authorizes the development of local emergency communications districts. 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 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). Based on your representation that the City is part of an emergency communication district established under chapter 772, we conclude the Department must withhold the originating telephone number and address you have highlighted in Exhibit 3 pursuant to section 552.101 of the Government Code in conjunction with chapter 772 of the Health and Safety Code, if they were furnished by a 9-1-1 service supplier.

Further, you argue Exhibit 3 contains information excepted from disclosure by section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information relating to a driver's license or a motor vehicle title or registration issued by an agency of this state. The submitted information contains motor vehicle information and thus, we agree that the Department must withhold such information, most of which you have

highlighted, under section 552.130 of the Government Code. We have marked additional information the Department must withhold under this provision.

In summary, the Department must withhold Exhibit 2 under section 552.101 in conjunction with section 58.007 of the Family Code. The Department must withhold the originating telephone number and address you have highlighted in Exhibit 3 pursuant to section 552.101 of the Government Code and chapter 772 of the Health and Safety Code, if they were furnished by a 9-1-1 service supplier. The Department must withhold the motor vehicle information you have highlighted and we have marked in Exhibit 3 in accordance with section 552.130 of the Government Code. The Department must release the remainder of the submitted information to the requestor.

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 Dep't of Pub. 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,

A handwritten signature in cursive script that reads "Christen Sorrell".

Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 188947

Enc: Submitted documents

c: Mr. Harold Dotson
1507 Summit
Mesquite, Texas 75149
(w/o enclosures)