



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 30, 2003

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

OR2003-7827

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# 190247.

The City of Mesquite Police Department (the "department") received a request for the complete history and call sheets for a specified address for the last three years. You indicate that you will release some of the requested information, but argue that the remaining 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 information you submitted.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses the doctrine of common law privacy. Common law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683. This office has found the following types of information excepted from required public disclosure under common law privacy: some kinds of medical

information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps), personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990), information concerning the intimate relations between individuals and their family members, *see* Open Records Decision No. 470 (1987), and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). After reviewing the submitted information, we find it contains information confidential under common law privacy. You must withhold the information we have marked under section 552.101 of the Government Code.

You further argue that sections of the Health and Safety Code except portions of the submitted information. 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 body that provides computerized 911 emergency services. *See generally* Open Records Decision No. 661 (1999). On the other hand, sections 772.118, 772.218 and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 911 callers furnished by a 911 service supplier. *See* Open Records Decision No. 649 (1996). Based on your representation that the City of Mesquite is part of an emergency communication district that was established under section 772.118, we conclude that all such telephone numbers and addresses contained in the submitted information are confidential. We agree with your markings and find that the department must withhold the marked information pursuant to section 552.101 of the Government Code.

Additionally, you argue certain submitted information is excepted under section 552.130. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement 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]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. We agree with your markings, and find that you must withhold this marked information pursuant to section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 in conjunction with common law privacy. All information marked under section 772.118 of the Health and Safety Code must be withheld. Finally, the department

must withhold all motor vehicle information under section 552.130. 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 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 black ink, appearing to read "Heather R. Rutland". The signature is fluid and cursive, with a large initial "H" and "R".

Heather R. Rutland  
Assistant Attorney General  
Open Records Division

HRR/seg

Ref: ID# 190247

Enc: Submitted documents

c: Mr. Jason Jones  
1611 Evergreen  
Mesquite, Texas 75149  
(w/o enclosures)