



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 19, 2003

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

OR2003-9239

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# 193077.

The Mesquite Police Department (the "department") received a request for various records pertaining to a specified incident. You claim that the requested 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 submitted information.

Initially, we note that a portion of the submitted information is identical to information that was the subject of Open Records Letter No. 2003-8901 (2003). In Open Records Letter No. 2003-8901 (2003), we concluded that the department must withhold some of the submitted information under sections 552.101 and 552.130 of the Government Code, that the department may be required to withhold social security numbers in conjunction with section 405(c)(2)(C)(viii)(I) of title 42 of the United States Code, and that the department must release the remainder of the submitted information to the requestor. Therefore, assuming that the four criteria for a "previous determination" established by this office in Open Records Decision No. 673 (2001) have been met, we conclude that the department must rely on our decision in Open Records Letter No. 2003-8901 (2003) with respect to the information requested in this instance that was previously ruled upon in that decision.<sup>1</sup> See

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<sup>1</sup>The four criteria for this type of "previous determination" are 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the attorney general's prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Public Information Act; and 4) the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. See Open Records Decision No. 673 (2001).

Gov't Code § 552.301(f); Open Records Decision No. 673 (2001). We now address your arguments for the remaining submitted information, which was not previously ruled upon in Open Records Letter No. 2003-8901 (2003).

You claim that the submitted information is confidential 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." This exception encompasses information that other statutes make confidential. You raise section 48.101 of the Human Resources Code, which pertains to the disclosure of reports of abuse, neglect, or exploitation of elderly and disabled persons in certain facilities. Section 48.101 reads in part as follows:

(a) The following information is confidential and not subject to disclosure under Chapter 552, Government Code:

(1) a report of abuse, neglect, or exploitation made under . . . chapter [48 of the Human Resources Code];

(2) the identity of the person making the report; and

(3) except as provided by this section, all files, reports, records, communications, and working papers used or developed in an investigation made under this chapter or in providing services as a result of an investigation.

(b) Confidential information may be disclosed only for a purpose consistent with this chapter and as provided by [Texas Department of Protective and Regulatory Services] rule or investigating state agency rule and applicable federal law.

Hum. Res. Code § 48.101(a), (b). The requested supplemental reports relate to the department's investigation of an injury to an elderly person. The only entities authorized to conduct an investigation under chapter 48 of the Human Resources Code are the Department of Protective and Regulatory Services and certain other state agencies, depending on the circumstances surrounding the incident. *See* Hum. Res. Code §§ 48.151, 48.152, 48.252, 48.301. Upon review, we determine that the requested records were not used or developed in an investigation made under chapter 48 of the Human Resources Code. Accordingly, we determine that the submitted information may not be withheld under section 552.101 of the Government Code in conjunction with section 48.101 of the Human Resources Code.

Next, you argue that a portion of the submitted information is excepted under section 552.101 of the Government Code in conjunction with sections 771.061 and 772.118 of the Health and Safety Code. 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). 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 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 of Mesquite is part of an emergency communication district that was established under section 772.118, we conclude that the department must withhold all such telephone numbers and addresses contained in the documents at issue pursuant to section 552.101 of the Government Code.

Finally, you argue that portions of the submitted information are excepted under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information relating to a driver's license or motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130. We note, however, that none of the remaining submitted documents contain information protected under section 552.130 of the Government Code. Therefore, no information may be withheld on that basis.

In summary, we conclude the following: (1) the department must rely on our decision in Open Records Letter No. 2003-8901 (2003) with respect to the information requested in this instance that was previously ruled upon in that decision, and (2) the department must withhold the originating telephone numbers and addresses of 9-1-1 callers furnished by a 9-1-1 service supplier in the documents at issue pursuant to section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. The remaining information must be released 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,



Sarah I. Swanson  
Assistant Attorney General  
Open Records Division

SIS/seg

Ref: ID# 193077

Enc. Submitted documents

c: Ms. Cindy Freedom  
333 Crooked Lane  
Mesquite, Texas 75149  
(w/o enclosures)