



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 28, 2005

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

OR2005-10600

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# 236965.

The Mesquite Police Department (the "department") received a request for all department call sheets and reports regarding a specified address. You claim that some of the submitted 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.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information made confidential by statute. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. 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). Section 58.007 is only applicable to records pertaining to juvenile suspects or offenders. *See id.*; *see also* Fam. Code § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision” for purposes of Fam. Code § 58.007). Furthermore, for purposes of section 58.007, “child” means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). The information submitted as Attachment 2 pertains to a juvenile suspect engaged in delinquent conduct that occurred after September 1, 1997. Since none of the exceptions to confidentiality in section 58.007 apply, we conclude that Attachment 2 is confidential pursuant to section 58.007(c) of the Family Code and must be withheld in its entirety under section 552.101 of the Government Code.

You contend that a portion of the submitted information in Attachment 3 is confidential under section 772.118 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts and section 772.118 applies only to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). Section 772.118 makes confidential the originating telephone numbers and addresses of 9-1-1 callers furnished by a 9-1-1 service supplier. *See id.* at 2. You represent that the City of Mesquite is part of an emergency communication district that was established under section 772.118, and indicate that the 9-1-1 callers’ telephone numbers and address you have marked were provided to the city by a service supplier. Accordingly, we agree that the originating 9-1-1 telephone numbers and address you have marked in the remaining information are confidential under section 772.118, and the department must withhold them under section 552.101 of the Government Code.<sup>1</sup>

Section 552.101 also 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. *Industrial Found. v. Texas 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

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<sup>1</sup>Because we reach this conclusion, we do not address your argument that this information is also confidential under section 771.061(a) of the Health and Safety Code.

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 that personal financial information not relating to a financial transaction between an individual and governmental body are excepted from required public disclosure under common law privacy. *See generally* Open Records Decision Nos. 545 (1990) (deferred compensation information, mortgage payments, assets, bills, and credit history protected under common law privacy), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common law privacy). We agree that the personal financial information you have marked in Attachment 3 is protected by the doctrine of common law privacy and must be withheld under section 552.101.

Section 552.130 of the Government Code excepts from disclosure information that “relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130. In accordance with section 552.130 of the Government Code, the department must withhold the Texas motor vehicle record information you have marked in Attachment 3. *See* Gov’t Code § 552.130.

In summary, Attachment 2 must be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The marked telephone numbers and addresses of 9-1-1 callers contained in Attachment 3 must be withheld pursuant to section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. The marked personal financial information in Attachment 3 must be withheld under section 552.101 of the Government Code in conjunction with the doctrine of common law privacy. The marked Texas motor vehicle record information in Attachment 3 must be withheld pursuant to section 552.130 of the Government Code. The remaining submitted 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/krl

Ref: ID# 236965

Enc. Submitted documents

c: Ms. Wynthia Cheatum  
5115 Galloway, Suite 304  
Mesquite, Texas 75150  
(w/o enclosures)