



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 2, 2011

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

OR2011-07771

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# 424307.

The Mesquite Police Department (the "department") received a request for information pertaining to a specified accident. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions 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." Gov't Code § 552.101. This section 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. *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *See id.* at 681-82. 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. *See* 540 S.W.2d at 683. This office has found that the following types of information are 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), and 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). You assert the information you have marked is confidential pursuant to common-law privacy. Upon review, we agree that the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses information that is made confidential by other statutes, including chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. You state that the City of Mesquite is part of an emergency communication district established under section 772.118. You indicate that the telephone number of the 9-1-1 caller that you have marked was furnished to the district by a 9-1-1 service supplier. Therefore, we conclude the department must withhold the marked information under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code.

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 or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1), (2). Thus, the department must withhold the information you have marked, in addition to the information we have marked, that relates to a Texas motor vehicle license, title, or registration pursuant to section 552.130.¹

You have marked a social security number under section 552.147 of the Government Code. Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. The requestor has a right, however, to the insured person's social security number. *See generally* Gov't Code § 552.023(b) (governmental body may not deny access

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers and Texas license plate numbers, without the necessity of requesting an attorney general decision. *See* ORD No. 684.

to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). Accordingly, the department may not withhold the marked social security number under section 552.147 of the Government Code.

In summary, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy and section 772.118 of the Health and Safety Code and section 552.130 of the Government Code. The remaining information must be released.

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eb

Ref: ID# 424307

Enc. Submitted documents

cc: Requestor
(w/o enclosures)