



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2012

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

OR2012-01144

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# 443142.

The Mesquite Police Department (the "department") received a request for the call sheet related to a specified collision. You claim 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.

We note you seek to withhold the telephone number of a 9-1-1 caller. In Open Records Letter No. 2011-15075 (2011), this office issued a previous determination to the department authorizing it to withhold originating telephone numbers of 9-1-1 callers furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section Ms. Lillian Guillen Graham 772.118 of the Health and Safety Code without requesting a decision from this office. *See Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).* You state the telephone number you have marked is the originating telephone number of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772. As such, the department must withhold the marked telephone number in accordance with the previous determination issued to the department in Open Records Letter No. 2011-15075.

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 exception encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. 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. *Id.* at 681-82.

This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally protected by common-law privacy. *See* Open Records Decision Nos. 545 at 4 (1990) (attorney general has found kinds of financial information not excepted from public disclosure by common-law privacy to generally be those regarding receipt of governmental funds or debts owed to governmental entities), 373 at 4 (1983) (determination of whether public’s interest in obtaining personal financial information is sufficient to justify its disclosure must be made on case-by-case basis). We agree the personal financial information you have marked is highly intimate or embarrassing and of no legitimate public interest. The department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov’t Code § 552.130(a)(2). We agree the department generally must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code. However, we note section 552.130 is meant to protect privacy interests, and the requestor might be the attorney for one of the individuals whose motor vehicle record information is at issue. As such he might have a right of access to this individual’s private information. *See* Gov’t Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, to the extent the department determines the requestor is the attorney for one of the individuals whose information is at issue, the department may not withhold that individual’s motor vehicle record information under section 552.130 of the Government Code.

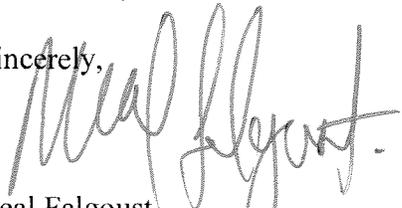
In summary, the department must withhold the marked telephone numbers in accordance with the previous determination issued to the department in Open Records Letter No. 2011-15075. The department also must withhold the marked personal financial information under section 552.101 in conjunction with common-law privacy. The department must withhold the marked motor vehicle information under section 552.130 of the Government Code; but if the department determines the requestor is the attorney for one of the individuals whose information at issue, the department may not withhold that

individual's information under section 552.130 of the Government Code. The remaining information must be released.

You ask this office to issue the department a previous determination permitting it to withhold certain personal financial information under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general decision. We decline to issue such a ruling at this time. Thus, 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/agn

Ref: ID# 443142

Enc. Submitted documents

c: Requestor
(w/o enclosures)