



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 10, 2012

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

OR2012-06892

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# 453360.

The Mesquite Police Department (the "department") received a request for a specified report and call sheet. You state the department has released the requested report. You inform us motor vehicle lien information will be withheld pursuant to the previous determination issued to the department under section 552.101 of the Government Code in conjunction with common-law privacy in Open Records Letter No. 2012-01375 (2012). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You claim that portions of the submitted call sheet are 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 this office issued Open Records Letter No. 2011-15075 (2011) as a previous determination authorizing the department to withhold telephone numbers of 9-1-1 callers under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. *See* Health & Safety Code § 772.118. Therefore, pursuant to Open Records Letter No. 2011-15075, the department must withhold the originating telephone number of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code. *See* ORD 673 (governmental body may rely on previous determination when elements of law, facts, and circumstances have not changed, decision concludes specific, clearly delineated category of

information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

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 common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See 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 established. *See id.* at 681-82. The type of information considered highly intimate or 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 id.* at 683. This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). This office has also determined common-law privacy encompasses certain types of personal financial information. Personal financial information related only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *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), 523 at 4 (1989) (noting distinction under common-law privacy between confidential background financial information furnished to public body about individual and basic facts regarding particular financial transaction between individual and public body), 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). Upon review, we agree the personal financial information you have marked is highly intimate or embarrassing and not a matter of legitimate public concern. We therefore conclude the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information you have marked under common-law privacy is not highly intimate or embarrassing or of no legitimate public concern. Accordingly, the department may not withhold this information, which we have marked for release, under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information related 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). Upon review, we agree the department must withhold the motor vehicle information you have marked under section 552.130 of the Government Code.

In summary, pursuant to Open Records Letter No. 2011-15075, the department must withhold the telephone number of a 9-1-1 caller under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. The department must withhold the personal financial information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the motor vehicle information you have marked under section 552.130 of the Government Code. The department must release the remaining information.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/dls

Ref: ID# 453360

Enc. Submitted documents

c: Requestor
(w/o enclosures)