ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2012

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

OR2012-07435

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# 453950.

The Mesquite Police Department (the "department") received a request for a specified report. You state the department will redact some information pursuant to Open Records Letter No. 2011-15075 (2011).[1] You claim 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 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

[1]Open Records Letter No. 2011-15075 is a previous determination issued to the department authorizing the department to withhold the 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 772.118 of the Health and Safety Code, without requesting a decision from this office.

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). You state the department will redact some personal financial information pursuant to Open Records Letter No. 2012-01375 (2012), which is a previous determination issued to the department authorizing the department to withhold information in a call sheet that reveals the existence of a motor vehicle lien under section 552.101 in conjunction with common-law privacy, without requesting a decision from this office. Upon review, we agree the personal financial information you have marked is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must generally withhold the information you have marked under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating 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 or another state or country. Gov't Code § 552.130(a)(1), (2). You state the department will redact motor vehicle record information as permitted by section 552.130(c) of the Government Code and Open Records Decision No. 684 (2009). Section 552.130(c) authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record information described in subsection 552.130(a)(1). *See id.* § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor). Open Records Decision No. 684 permits a governmental body to redact Texas license plate numbers, which are made confidential by section 552.130(a)(2), without requesting an attorney general decision. Upon review, we agree the department must generally withhold the motor vehicle information you have marked under section 552.130 of the Government Code.

However, we note common-law privacy and section 552.130 of the Government Code protect personal privacy. The requestor may be acting as the authorized representative of one of the individuals whose privacy interests are at issue. In that event, the requestor would have a right of access under section 552.023 of the Government Code to its insured's information. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond the right of general public, to information held by a governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987). Accordingly, if the requestor is acting as the authorized representative of the individual at issue, the department may not withhold from this requestor information that would otherwise be withheld under section 552.101 in conjunction with common-law privacy or section 552.130 to protect this individual's privacy. However, if the requestor is not acting as the authorized representative of the individual at issue, the department must withhold the information pertaining to this individual you have marked under section 552.101 in conjunction with common-law privacy

and section 552.130. In either event, the department must withhold the information you have marked pertaining to the other individual under section 552.101 in conjunction with common-law privacy and section 552.130.

In summary, if the requestor is not acting as the authorized representative of the individual at issue, the department must withhold the information you have marked pertaining to this individual under section 552.101 of the Government Code in conjunction with common-law privacy and under section 552.130 of the Government Code. The department must withhold the information you have marked pertaining to the other individual under section 552.101 of the Government Code in conjunction with common-law privacy and under section 552.130 of the Government Code. The remaining information must be released.

You also ask this office to issue a previous determination that would permit the department to withhold information pertaining to a motor vehicle registration under section 552.130(a)(2) of the Government Code, contained in call sheets, without the necessity of requesting a decision under section 552.301 of the Government Code. We decline to issue such a previous determination at this time. Accordingly, 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,

Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 453950

Enc. Submitted documents

cc: Requestor
(w/o enclosures)