



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 23, 2012

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

OR2012-07857

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# 454434.

The Mesquite Police Department (the "department") received a request for a specified call sheet. You state the department will redact some information pursuant to Open Records Letter Nos. 2011-15761 (2011) and 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.

You state you will redact information marked pursuant to Open Records Letter Nos. 2012-06459 (2012) and 2012-01375 (2012).² We note portions of the remaining information may also be protected by common-law privacy. 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

¹Open Records Letter Nos. 2011-15761 and 2011-15075 are previous determinations to the department authorizing the department to withhold the originating addresses and telephone numbers, respectively, 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.

²Open Records Letter Nos. 2012-06459 and 2012-01375 are previous determinations to the department authorizing the department to withhold the price of a motor vehicle and information that reveals the existence of a motor vehicle lien, respectively, from a call sheet under section 552.101 in conjunction with common-law privacy, without requesting a decision from this office.

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). Accordingly, we conclude the remaining information we have marked is highly intimate or embarrassing and of no legitimate public interest. Thus, this information is generally confidential under section 552.101 of the Government Code in conjunction with common-law privacy.

However, we note the requestor may be acting as the authorized representative of one of the individuals whose personal financial information is at issue. Thus, if the requestor is acting as the authorized representative of this individual, then the department may not withhold the individual's personal financial 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). If the requestor is not acting as the authorized representative of the individual at issue, then the department must withhold the individual's personal financial information, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

You state the department will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code and Open Records Decision No. 684 (2009).³ We note the remaining information contains additional motor vehicle record information. 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). However, section 552.130 protects personal privacy interests. As previously noted, the requestor may be the authorized representative of one of the individuals whose information is at issue. Thus, if the requestor is acting as the authorized representative of this individual, then the department may not withhold the individual's motor vehicle record information. If the requestor is not acting as the authorized

³The Texas legislature amended section 552.130 of the Government Code effective September 1, 2011, to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e). 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.

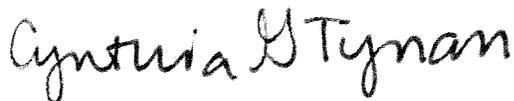
representative of the this individual, then the department must withhold the individual's motor vehicle record information, which we have marked, under section 552.130 of the Government Code. Regardless, the department must withhold the motor vehicle record information it has marked, as well as the additional information we have marked, that does not pertain to that individual under section 552.130 of the Government Code.

In summary, if the requestor is not the authorized representative of one of the individuals at issue, the department must withhold the information we 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 remaining information it has marked, as well as the information we have marked, under section 552.130 of the Government Code. The department must release the remaining information.

You 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, without the necessity of requesting a decision from this office. 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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/em

Ref: ID# 454434

Enc. Submitted documents

c: Requestor
(w/o enclosures)