



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2012

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

OR2012-15859

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# 468751.

The Mesquite Police Department (the "department") received a request for information pertaining to a specified accident. You state the department will redact license plate numbers pursuant to Open Records Decision No. 684 (2009) and other motor vehicle record information pursuant to section 552.130(c) of the Government Code.¹ You also state the department will redact some information pursuant to Open Records Letter Nos. 2011-15075 (2011), 2011-15761 (2011), 2012-01375 (2012), and 2012-06459 (2012).² You state the department has released some of the requested information but claim some of

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including Texas license plate numbers under section 552.130(a)(2) of the Government Code, without the necessity of requesting an attorney general decision. Section 552.130 allows a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3), such as driver's license numbers, without the necessity of seeking a decision from the attorney general. 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). *Id.* § 552.130(d), (e).

²Open Records Letter Nos. 2011-15075 and 2011-15761 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. Open 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.

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 section encompasses information made confidential by other statutes, such as section 143.090 of the Local Government Code. You state the City of Mesquite is a civil service city under chapter 143 of the Local Government Code. Section 143.090 of the Local Government Code provides the following:

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:

- (1) the officer has been charged with an offense by indictment or by information;
- (2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;
- (3) the photograph is introduced as evidence in a judicial proceeding; or
- (4) the officer gives written consent to the release of the photograph.

Local Gov't Code § 143.090. You state some of the submitted photographs depict department police officers. Upon review, we agree the department must withhold the photographs you have indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that (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). The types of information considered 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. *Id.* at 683. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *E.g.* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and

physical handicaps). Some of the submitted information is highly intimate or embarrassing and is not of legitimate concern to the public. Therefore, the department must withhold this information, which we 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 title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). The department must withhold the motor vehicle record information you have marked and indicated in the submitted documents, as well as the information we have marked, under section 552.130(a)(2) of the Government Code.

In summary, the department must withhold the following: the photographs you have indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code; the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; and the information marked and indicated under section 552.130(a)(2) of the Government Code. The department must release the remaining information.

Finally, you ask this office to issue a previous determination that would permit the department to withhold information pertaining to motor vehicle registrations 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 468751

Enc. Submitted documents

c: Requestor
(w/o enclosures)