



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 12, 2013

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

OR2013-11924

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# 492994.

The Mesquite Police Department (the "department") received a request for information pertaining to three call sheets regarding a specified address. You state the department has released some of the requested information. You claim a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 protected by other statutes. In Open Records Letter Nos. 2011-15075 (2011) and 2011-15761 (2011), this office issued previous determinations authorizing the department to withhold the originating telephone numbers and addresses, respectively, of 9-1-1 callers furnished 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. *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)). We note you have marked an address that was provided directly by a 9-1-1 caller at issue, and not a 9-1-1 service supplier. Therefore, this information is not

excepted under section 772.118 of the Health and Safety Code and may not be withheld under section 552.101 on this basis. To the extent the remaining telephone numbers and address, which we have marked, consist of the originating telephone numbers or address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772, the department must withhold the information marked under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code.

Section 552.101 also encompasses section 771.061 of the Health and Safety Code, which makes confidential “[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service” and “[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service.” Health & Safety Code § 771.061(a). As noted above, the remaining address you marked was provided by a 9-1-1 caller, and not a third-party telecommunications service provider. Therefore, the remaining address you marked may not be withheld under section 552.101 in conjunction with section 771.061 of the Health and Safety Code.

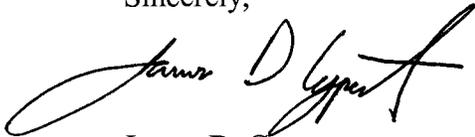
Section 552.101 also encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. 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 established. *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. *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. *See* Open Records Decision Nos. 455 (1987) (information pertaining to prescription drugs, specific illnesses, operations and procedures, and physical disabilities protected from disclosure), 422 (1984), 343 (1982). Upon review, we agree the information you have marked is highly intimate or embarrassing and is of no legitimate public interest. Therefore, the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, to the extent the telephone numbers and address we have marked consist of the originating telephone numbers or address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772, the department must withhold the information we have marked 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 information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Cypert". The signature is fluid and cursive, with a large initial "J" and "D".

James D. Cypert
Assistant Attorney General
Open Records Division

JDC/ac

Ref: ID# 492994

Enc. Submitted documents

c: Requestor
(w/o enclosures)