



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 28, 2006

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

OR2006-06871

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# 252782.

The Mesquite Police Department (the "department") received a request for all call sheets and arrest reports pertaining to a specified address from July 2005 to the present. You claim that the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

First, we address your argument that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by other statutes. Gov't Code § 552.101. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007 of the Family Code. Section 58.007(c) provides in pertinent part as follows:

¹Although you also raised sections 552.103 and 552.108, you have not submitted any arguments as to why these sections are applicable. Therefore, we assume that you no longer claim these exceptions. See Gov't Code §§ 552.301(e)(1)(A), .302.

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Upon review, we agree that the information in Exhibit #2 involves juvenile conduct that occurred after September 1, 1997. We have also marked additional information in Exhibit #3 that pertains to juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply. Therefore, the information in Exhibit #2, as well as the additional information we have marked in Exhibit #3, is confidential pursuant to section 58.007(c) of the Family Code and must be withheld from disclosure under section 552.101 of the Government Code.

Next, you argue that portions of the submitted information are excepted under section 552.101 in conjunction with sections 771.061 and 772.118 of the Health and Safety Code. Section 771.061(a) of the Health and Safety Code makes confidential certain information that telephone companies and the United States Postal Service furnish a governmental entity that provides computerized 9-1-1 emergency services. *See generally* Open Records Decision No. 661 (1999). On the other hand, sections 772.118, 772.218, and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 9-1-1 callers furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). Based on your representation that the City of Mesquite is part of an emergency communication district that was established under section 772.118, we conclude that the department must withhold the telephone number and address it has marked in Exhibit #3 under section 552.101.

Next, we address your claim that portions of the remaining information are excepted from disclosure under section 552.130 of the Government Code. Section 552.130 excepts from public disclosure information that relates to the following:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state.

Gov't Code § 552.130(a). Accordingly, the Texas driver's license numbers you have marked in Exhibit #3 must be withheld under section 552.130 of the Government Code.

Exhibit #3 also contains a social security number. Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147. Therefore, we agree that the department must withhold the social security number it has marked in Exhibit #3 under section 552.147.²

In summary, the department must withhold the information in Exhibit #2 and the additional information we have marked in Exhibit #3 under section 58.007 of the Family Code in conjunction with section 552.101 of the Government Code. Also in conjunction with section 552.101, the department must withhold the marked telephone number and address pursuant to chapter 772 of the Health and Safety Code. The department must also withhold the marked Texas driver's license numbers under section 552.130, and the marked social security number under section 552.147 of the Government Code. The remaining submitted information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

²We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

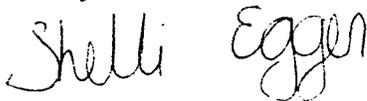
Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Shelli Egger
Assistant Attorney General
Open Records Division

SE/krl

Ref: ID# 252782

Enc. Submitted documents

c: Mr. Steven Fitch
City of Garland Housing Authority
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Garland, Texas 75040
(w/o enclosures)