



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 13, 2015

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

OR2015-09317

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# 563380.

The Mesquite Police Department (the "department") received a request for the call sheet and 9-1-1 audio recording regarding a specified incident. You also state the department will redact certain information pursuant to Open Records Letter Nos. 2011-15075 (2011), 2011-15761 (2011), 2012-01375 (2012), and 2012-06459 (2012).¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the

¹Open Records Letter Nos. 2011-15075 and 2011-15761 are previous determinations authorizing the department to withhold the originating telephone numbers and addresses, 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 No. 2012-01375 is a previous determination authorizing the department to withhold motor vehicle lien information in a call sheet under section 552.101 in conjunction with common-law privacy without requesting a decision from this office. Open Records Letter No. 2012-06459 is a previous determination authorizing the department to withhold the price of a motor vehicle in a call sheet under section 552.101 of the Government Code in conjunction with common law privacy without the necessity of requesting a decision under section 552.301 of the Government Code.

Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information you marked and indicated satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information you marked and indicated under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130(a). Upon review, we find the department must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code.

In summary, the department must withhold the information you marked and indicated under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information you marked and we marked under section 552.130 of the Government Code. The department must release the remaining information.²

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.

²We note the requestor has a right of access beyond that of the general public to some of the information being released that pertains to himself, which is normally excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code. *See* Gov’t Code § 552.023(a).

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 cursive script that reads "Britni Fabian".

Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 563380

Enc. Submitted documents

c: Requestor
(w/o enclosures)