



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 18, 1996

Ms. Marianne Landers Banks  
City Attorney  
City of Georgetown  
P.O. Box 409  
Georgetown, Texas 78627-0409

OR96-0341

Dear Ms. Banks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38950.

The City of Georgetown (the "city") received a request for information concerning complaints regarding a specific private residence and a request for police or fire department records regarding parking problems/incidences in front of 207 West Central. You contend that portions of the complaints may be excepted from required public disclosure under section 552.101 of the Government Code as it incorporates the informer's privilege. You also assert that the information regarding the parking problems/incidences in front of 207 West Central may be excepted from required public disclosure under section 552.108 of the Government Code.

Texas courts long have recognized the informer's privilege, *see Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928), and it is a well-established exception under the Open Records Act, Open Records Decision No. 549 (1990) at 4. For information to come under the protection of the informer's privilege, the information must relate to a violation of a civil or criminal statute. *See* Open Records Decision Nos. 515 (1988) at 2-5, 391 (1983).

Although the "informer's privilege" aspect of section 552.101 ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 285 (1981) at 1, 279 at 1-2 (1981); *see also* Open Records Decision No. 208 (1978) at 1-2. This may include enforcement of quasi-criminal civil laws. *See* Open Records Decision Nos. 515 (1988) at 3, 391 (1983) at 3. The privilege excepts the informer's statement itself only to the extent necessary to protect the informer's identity. Open Records Decision No. 549 (1990) at 5. However, once the

identity of the informer is known to the subject of the communication, the exception is no longer applicable. Open Records Decision No. 202 (1978) at 2.

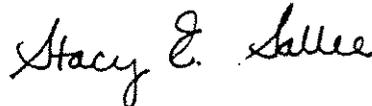
You state that the complainant was reporting violations of the city's code of ordinances. We have reviewed the information and agree that the city may withhold the name, home address, and telephone number of the complainant under the informer's privilege.

Section 552.108(b) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . ." This section excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would unduly interfere with law enforcement and crime prevention. Open Records Decision No. 531 (1989) at 2 (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). When section 552.108(b) is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how releasing the information would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) at 3.

Although you claim that the parking information may be withheld in its entirety under the law enforcement exception as an internal record of a law enforcement agency that is maintained for internal use in matters relating to law enforcement, you do not demonstrate how the release of the requested information would unduly interfere with law enforcement and crime prevention, nor does the information demonstrate on its face how release would unduly interfere with law enforcement or crime prevention. Accordingly, you may not withhold this information under section 552.108 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/LBC/ch

Ref: ID# 38950

Enclosures: Submitted documents

cc: Ms. Karen S. Ball  
207 W. Central Dr.  
Georgetown, Texas 78628  
(w/o enclosures)