



April 13, 2000

Ms. Tracy B. Calabrese
Senior Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2000-1473

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135736.

The City of Houston (the "city") received a request for the identity of the individual or individuals who reported to the Westheimer Police Substation certain alleged street parking violations. You have provided for our review information that is responsive to the request, consisting of a number of "Call for Service Inquiry" sheets ("call sheets"). You have marked for redaction from each call sheet the name, and where applicable, the telephone number of the reportee. You assert that this information is excepted from public disclosure under section 552.101 of the Government Code in conjunction with the informer's privilege. We have reviewed the submitted information and considered the exception you assert.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The informer's privilege has been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law

enforcement within their particular spheres.” Open Records Decision No. 279 at 2 (1981) (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. See Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988).

In this instance, you explain that the call sheets at issue involve alleged violations of section 545.302 of the Transportation Code. See Transp. Code § 545.302(a)(2) (a vehicle operator may not stop, stand or park a vehicle on a sidewalk). With respect to each specific complaint, you do not indicate whether the requestor or the subject of the complaint already knows the identity of the complainant. However, you acknowledge that “once the identity of the informer is known to the subject of the communication, the [informer’s privilege] exception is no longer available.” We therefore assume that, in each instance, the subject of the complaint does not already know the identity of the informer. After reviewing your arguments and the submitted documents, we thus agree that you have demonstrated the applicability of the informer’s privilege to the requested information. We note that the informer’s privilege excepts an informer’s statement itself only to the extent necessary to protect the informer’s identity. Open Records Decision No. 549 at 5 (1990). Upon careful review, we agree that the information you have marked is excepted from disclosure under the informer’s privilege, since any portion of that information, if disclosed, could lead one to readily identify the informer. In summary, we conclude that the information you have marked, in its entirety, is excepted from disclosure under section 552.101 of the Government Code in conjunction with the informer’s privilege.

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).

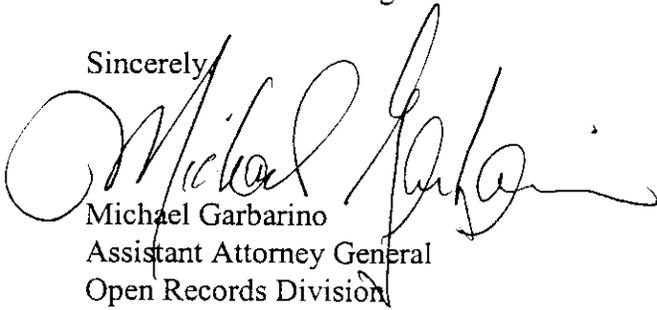
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records;

2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



Michael Garbarino
Assistant Attorney General
Open Records Division

MG/ch

Ref: ID# 135736

Encl. Submitted documents

cc: Mr. Ed Moninger
2517 Ralph Street
Houston, Texas 77006
(w/o enclosures)