



November 15, 2001

Ms. Myrna S. Reingold
Galveston County Legal Department
4127 Shearn Moody Plaza
123 Rosenberg
Galveston, Texas 77550-1454

OR2001-5294

Dear Ms. Reingold:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155097.

The Galveston County Sheriff's Department (the "sheriff") received a request for three specified offense reports. You advise that the sheriff has released basic front-page information on all three reports to the requestor. You claim that some of the remaining requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert that the sheriff is entitled to withhold some information responsive to the request pursuant to section 552.101 in conjunction with the common law informer's privilege. Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The Texas courts have recognized the informer's privilege. *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 privilege

excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 at 5 (1990).

In this case, you have not specified, nor have you marked, the information in the documents to which you believe the informer's privilege applies. Therefore, we find that you may not withhold information from disclosure pursuant to section 552.101 of the Government Code in conjunction with the common law informer's privilege.

Next, you claim that offense report number 90061291 is excepted under section 552.108 of the Government Code. Although you cite section 552.108(a)(2), based on your arguments, we understand you to assert section 552.108(a)(1). This section provides that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You advise that the investigation of the incident has not yet resulted in conviction or deferred adjudication, and that the statute of limitations has not run. Thus, we conclude that the release of the information "would interfere with the detection, investigation, or prosecution of crime." *Id.* Therefore, you may withhold the information in offense report number 90061291. While section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime under section 552.108(c), we find based on your representations that you have released basic information relating to this report.

Finally, you claim that there is information in one of the reports that is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 prohibits the release of information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state, or a motor vehicle title or registration issued by an agency of this state. Therefore, we agree that under section 552.130, the sheriff must withhold the Texas driver's license number, license plate number and vehicle identification number in offense report number 10071970.

In summary, you may withhold offense report number 90061291 and you must withhold the license plate and vehicle identification numbers in offense report number 10071970. You must release the remaining requested information.

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).

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 General Services Commission 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,



Kristen Bates
Assistant Attorney General
Open Records Division

KAB/seg

Ref: ID# 155097

Enc. Submitted documents

c: Mr. Jerrod Brown
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(w/o enclosures)