



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 15, 2005

Mr. David L. Hay
Dallas County Community College District
701 Elm Street
Dallas, Texas 75202

OR2005-11263

Dear Mr. Hay:

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# 238314.

The Dallas County Community College District (the "district") received a request for a copy of police report number 2005001158. You inform us that you will release most of the requested information to the requestor. You claim that the highlighted portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You indicate, and the documents show, that police report number 2005001158 was closed. Therefore, this investigation has concluded in a result other than a conviction or deferred adjudication. Accordingly, we agree that section 552.108(a)(2) is applicable to most of the highlighted portions of the narratives in Exhibits D, E, and F, and all of Exhibit G.

However, you state, and we agree, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic

information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Basic information includes the identification and description of a complainant and a detailed description of the offense. *See id.* at 4. Thus, the district must release portions of the narratives. You further assert, however, that the complainant's identifying information in Exhibits D and H is excepted from disclosure by the 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." Gov't Code § 552.101. 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 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).

You indicate, and the submitted documents show, that the complainant at issue reported to a district campus peace officer the alleged crime of criminal trespass. You inform us that the subject of the information does not already know the informer's identity. Having considered your representations and reviewed the submitted information, we agree that, pursuant to section 552.101 of the Government Code in conjunction with the common law informer's privilege, the district may withhold the complainant's name, telephone number, address, social security number, and Texas driver's license number in Exhibits D and H as identifying information. *See* Open Records Decision Nos. 279 at 2 (1981), 156 (1977) (granting informer's privilege for the identity of an individual who reported to a city animal control division a possible violation of a statute that carried with it criminal penalties). The remaining information in Exhibits D and H for which you assert the informer's privilege is not identifying information and may not be withheld on this basis.

We will consider your assertion under section 552.135 of the Government Code for the information in Exhibits D and H that is not excepted by the common law informer's privilege. Section 552.135 provides in relevant part:

- (a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's

or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov't Code § 552.135(a)-(b). Section 552.135 protects an informer's identity. As we concluded above, the remaining information does not identify the informer. Thus, the district may not withhold such information in Exhibits D and H under section 552.135.

We note that the highlighted information in Exhibit H contains Texas motor vehicle information. Section 552.130 of the Government Code excepts from public disclosure information that relates to a driver's license or motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130. We note, however, that this section excepts information from disclosure in order to protect an individual's privacy. Therefore, the requestor is entitled to his own motor vehicle information, and it may not be withheld from him under section 552.130. *See* Gov't Code § 552.023 (person has a special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interest).

In summary, the district may withhold the complainant's name, phone number, address, social security number, and Texas driver's license number in Exhibits D and H pursuant to section 552.101 in conjunction with the common law informer's privilege. With the exception of a detailed description of the offense, the district may withhold the highlighted information in Exhibits D, E, F, and G under section 552.108(a)(2). The remaining submitted information must be released to the requestor.

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 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,



Jaime L. Flores
Assistant Attorney General
Open Records Division

JLF/krl

Ref: ID# 238314

Enc. Submitted documents

c: Mr. Joseph Lee McKinney
1601 Knight Circle
Grand Prairie, Texas 75050
(w/o enclosures)