



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 10, 2009

Ms. Jenny Gravley
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2009-09536

Dear Ms. Gravley:

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# 348802.

The City of Crowley (the "city"), which you represent, received a request for a specified arrest report and offense report. You state that you have released some of the requested information. You claim that portions of the submitted information are exempted 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.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. The informer's privilege, incorporated into the Act by section 552.101, has long been recognized by Texas courts. *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). 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 informers identity. Open Records Decision Nos. 515 at 3 (1998), 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). However, the informer's privilege protects the content of the communication only to the extent that it identifies the informant. *Roviaro v. United States*, 353 U.S. 53, 60 (1957).

~~You state that the information you have marked in the submitted documents relates to a reported violation of section 49.031 of the Texas Penal Code made to the city's Police Department. Based on this representation, the city must withhold the identifying information of the informant that we have marked in the submitted information pursuant to section 552.101 of the Government Code in conjunction with the informer's privilege. However, the remaining information you have marked does not consist of identifying information of an informer; therefore, the city may not withhold the remaining information you have marked under section 552.101 in conjunction with the informer's privilege.~~

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). 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 have marked portions of the submitted information and assert that this information is related to a case that did not result in a conviction or deferred adjudication. Based on this representation, we conclude you may withhold the information you have marked under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code exempts from disclosure information that relates to a Texas motor vehicle driver's license or a Texas motor vehicle title or registration. *Id.* § 552.130(a)(1), (2). The city must withhold the Texas motor vehicle record information you have marked in the remaining information under section 552.130 of the Government Code.

In summary, the city must withhold the identifying information of the informant we have marked pursuant to section 552.101 in conjunction with the informer's privilege. The city may withhold the information you have marked under section 552.108(a)(2) of the Government Code. The city must withhold the Texas motor vehicle record information you have marked in the remaining information under section 552.130 of the Government Code. The remaining information must be released.

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.

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.oag.state.tx.us/open/index_orl.php,

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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 348802

Enc. Submitted documents

c: Requestor
(w/o enclosures)