



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 5, 2010

Mr. Adam Falco
Senior Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2010-03269

Dear Mr. Falco:

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# 372391.

The City of College Station (the "city") received a request for information regarding police complaints for a specified address during a specified time period, including computer aided dispatch records related to the complaints. You claim portions of the submitted dispatch records are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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. This exception encompasses information protected by the common-law informer's privilege, which has long 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. 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).

You inform this office all the submitted dispatch reports pertain to calls to the city's police department. You state the individuals listed as complainants reported crimes to the city's police department. However, upon review, only two reports involve individuals reporting conduct in violation of a civil or criminal statute. We marked the complainants' identifying information in each of those reports, which may be withheld under section 552.101 of the Government Code in conjunction with the informer's privilege. However, one of the three remaining reports involves an individual who was alleged to have committed a criminal violation calling police to address that allegation. This individual did not report any statutory violation, and his identity may not be withheld on the basis of the informer's privilege. The other two remaining reports pertain to individuals requesting welfare checks at the specified address. You have failed to identify any statutory violations to which these calls relate. Thus, you have failed to demonstrate how the informer's privilege is applicable to the remaining individuals' identities. See Gov't Code § 552.301(e)(1)(A); Open Records Decision Nos. 542 (1990) (concluding Act places on governmental body burden of establishing why and how exception applies to requested information), 532 (1989), 515, 252 (1980). Consequently, the city may not withhold any remaining information pursuant to section 552.101 in conjunction with the informer's privilege.

The remaining information contains a Texas driver's license number subject to section 552.130 of the Government Code.¹ Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license or driver's license issued by a Texas agency. Gov't Code § 552.130(a)(1). The city must withhold the Texas driver's license number we marked in the remaining information under section 552.130 of the Government Code.²

In summary, the city (1) may withhold the information we marked under section 552.101 of the Government Code in conjunction with the informer's privilege, and (2) must withhold the Texas driver's license number we marked under section 552.130 of the Government Code. The remaining information must be released.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Davis', with a long horizontal flourish extending to the right.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 372391

Enc. Submitted documents

cc: Requestor
(w/o enclosures)