



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 23, 2010

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County  
301 Jackson Street, Suite 728  
Richmond, Texas 77469

OR2010-04031

Dear Ms. Rangel:

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# 374034.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for a specified arrest report and charge sheet. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

We note the requestor has agreed to the redaction of any social security, drivers license, and state identification numbers of third parties. Therefore, any such information within the requested documents is not responsive to the present request for information. Our ruling does not address this non-responsive information, and the system need not release this information in response to the request.

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<sup>1</sup>We assume that the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code §552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The sheriff states the submitted information relates to a pending criminal investigation and prosecution. Based on this representation and our review, we conclude that the release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14<sup>th</sup> Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is applicable to the requested information.

We note, however, 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*. *See Open Records Decision No. 127 at 3-4 (1976)* (summarizing types of information deemed public by *Houston Chronicle*). You claim, however, that portions of the basic information may be withheld under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 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); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). The informer’s privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law enforcement authority, provided 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)*. 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*. We also note that the privilege excepts the informer’s statement only to the extent necessary to protect that informer’s identity. *See Open Records Decision No. 549 at 5 (1990)*.

You state that portions of the basic information reveal the identity of a person reporting violations of the law. The submitted information indicates that the violations at issue carry

criminal penalties. However, we note that the entity who reported the violation is a business entity and not a person. The informer's privilege does not protect the identity of a corporation that reports a violation of the law, as a corporation is not an individual. See *Roviaro v. United States*, 353 U.S. 53, 59 (1957), Open Records Decision No. 515 at 2 (1988). Thus, the informer's privilege is not applicable to the information at issue. Accordingly, the sheriff may not withhold any portion of the basic information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

In summary, with the exception of basic information, the sheriff may withhold the submitted information under section 552.108(a)(1).

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](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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 374034

Enc. Submitted documents

c: Requestor  
(w/o enclosures)