



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 28, 2010

Ms. Susan Camp-Lee  
Sheets & Crossfield, P.C.  
For City of Round Rock  
309 East Main Street  
Round Rock, Texas 78664-5246

OR2010-07771

Dear Ms. Camp-Lee:

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# 382100.

The City of Round Rock (the "city"), which you represent, received a request for the 9-1-1 audio recording and police report related to a specified incident. We note you have redacted a Texas driver's license number under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> In addition, we note you have redacted a social security number pursuant to section 552.147 of the Government Code.<sup>2</sup> You claim that portions of the submitted information 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 from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by the common-law

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<sup>1</sup>We 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 Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>2</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

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 submitted information reveal the identity of a person reporting a possible violation of section 46.035 of the Penal Code to the city's police department. We note that the violation at issue is a Class A misdemeanor.

Based on your representations and our review of the information at issue, we find that the submitted information involves a report of a possible violation of law made to officials with the duty of enforcing that law. Accordingly, the city may withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with the common-law informer's privilege. Furthermore, the city may withhold this type of information from the submitted audio recording. However, we find that the remaining information you have marked does not identify the informer and, thus, may not be withheld under section 552.101 on the basis of the informer's privilege.

We note a portion of the remaining submitted information is subject to section 552.130 of the Government Code.<sup>3</sup> Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). The city must withhold the information we have marked under section 552.130 of the Government Code.<sup>4</sup>

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<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>4</sup>We note that this requestor has a special right of access to his own license plate number. *See* Gov't Code § 552.023(a). Accordingly, if the city receives another request for the information from an individual other than the individual with a right of access under section 552.023, the city is authorized to withhold the requestor's license plate number under section 552.130 without the necessity of requesting an attorney general decision. *See* ORD 684.

In summary, the city may withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with the common-law informer's privilege. Furthermore, the city may withhold this type of information from the submitted audio recording. In the event the city does not have the technological capacity to redact the informer's identifying information from the submitted recording, the city may withhold the audio recording in its entirety. The city must withhold the information we have marked under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 382100

Enc. Submitted documents

c: Requestor  
(w/o enclosures)