



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 1, 2010

Mr. Jeffrey L. Moore
Brown & Hofmeister, LLP
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2010-16522

Dear Mr. Moore:

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# 398922.

The Roanoke Police Department (the "department"), which you represent, received a request for a specified incident report involving the requestor. You indicate you are redacting social security numbers of individuals other than the requestor pursuant to section 552.147(b) of the Government Code.¹ You claim 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). 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. *See Open Records Decision No. 208 at 1-2 (1978)*. The informer's

¹Section 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. *See Gov't Code § 552.147(b)*.

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 1-2 (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 (1988). However, individuals who provide information in the course of an investigation but do not make the initial report of the violation are not informants for the purposes of claiming the informer's privilege. 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). We note the informer's privilege does not apply where the informant's identity is known to the individual who is the subject of the complaint. *See* Open Records Decision No. 208 at 1-2 (1978).

You state portions of the submitted information include the identities and identifying information of individuals who contacted the department to report an alleged aggravated assault with a deadly weapon, which carries a criminal penalty. However, some of the individuals you have marked are witnesses who provided information during the course of the investigation but did not make the initial report of the violation. Further, review of the submitted information reveals the individual who is the subject of the complaint knows the identity of the informants. Accordingly, we find you have failed to establish the informer's privilege is applicable to the information you have marked, and the department may not withhold any of the submitted information under section 552.101 on that basis.

You indicate you are redacting Texas driver's license numbers pursuant to Open Records Decision No. 684 (2009). We note this office recently issued Open Records Decision No. 684, 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. *See* Open Records Decision No. 684 at 8 (2009). We note the remaining information contains an additional Texas driver's license number you did not mark, and additional information not subject to Open Records Decision No. 684. Therefore, we will address the applicability of section 552.130 to the remaining information. 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). Upon review, we find portions of the remaining information consist of Texas motor vehicle record information. Accordingly, the department must withhold the Texas driver's license numbers you have indicated, as well as the additional Texas motor vehicle record information we have marked, under section 552.130 of the

Government Code. As you raise no further exceptions to disclosure, the remaining submitted information must be released.²

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/tp

Ref: ID# 398922

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the information being released in this instance includes information that may be confidential with respect to the general public. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.