



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 18, 2010

Ms. Heather Shankle  
Records and Information Specialist  
City of Burleson  
141 West Renfro  
Burleson, Texas 76028-4261

OR2010-17461

Dear Ms. Shankle:

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# 400339 (PIR #343).

The City of Burleson (the "city") received a request for the witness and victim statements related to a specified incident involving the requestor. You claim that the requested information is 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." Gov't Code § 552.101. This section encompasses 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 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). 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. However, witnesses 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).

You assert that the submitted witness and victim statements are protected from disclosure pursuant to the informer's privilege. Upon review, we agree that the information we have marked tends to identify the person who reported the alleged violation. Thus, the city may withhold this information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, you have not established that the remaining information you have marked under the common-law informer's privilege identifies an informer; therefore, the city may not withhold any of the remaining information under section 552.101 on that basis.

We note the remaining information contains Texas driver's license numbers that are subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 excepts from public disclosure information that relates to a Texas motor vehicle operator's or driver's license or permit or Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). Thus, the city must withhold the Texas driver's license numbers we have marked under section 552.130.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). Thus, the city must withhold the personal e-mail addresses we have marked under section 552.137 unless the owners of the addresses have affirmatively consented to their release. *See id.* § 552.137(b).

In summary, the city may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The city must withhold the Texas driver's license numbers we have marked under section 552.130 of the Government Code. The city must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code unless the owners of the addresses have affirmatively consented to their release.<sup>2</sup> The remaining information must be released.<sup>3</sup>

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note Open Records Decision No. 684 (2009) is 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 and e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>We note the remaining information contains social security numbers. 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).

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# 400339

Enc. Submitted documents

c: Requestor  
(w/o enclosures)