



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 5, 2011

Ms. Lillian Guillen Graham  
Assistant City Attorney  
City of Mesquite  
P.O. Box 850137  
Mesquite, Texas 75185-0137

OR2011-17822

Dear Ms. Graham:

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# 439854.

The Mesquite Police Department (the "department") received a request for incident report number 11104807. You claim the submitted report is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Although you acknowledge the criminal investigation is currently inactive, you state that since the statute of limitations has not run, this case may be reactivated. You assert that release of the report at this time would interfere with the investigation. Based on your representations and our review of the records, we agree that release will interfere with the

detection, investigation, or prosecution of crime.<sup>1</sup> See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests are present in active cases).

Section 552.108, however, 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 (1976) (summarizing types of information considered to be basic information). Although you assert the witnesses' identifying information should be withheld, basic information does not include witness-identifying information. Basic information does, however, include the identity and description of the complainant. *Id.* at 4.

You seek to withhold the complainant's identity under section 552.101 in conjunction with the informer's privilege. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses the informer's privilege. See Gov't Code § 552.101; see also *Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); Open Records Decision No. 582 (1990). The informer's privilege protects the identity of a person who reports a violation or possible violation of the law to officials charged with the duty of enforcing the particular law. The privilege also protects individuals who report violations to administrative agencies having a duty to enforce statutes with civil or criminal penalties. See Open Records Decision No. 515 at 2 (1988). The informer's privilege does not apply if the subject of the information already knows the informer's identity. Open Records Decision No. 208 at 1-2 (1978). You state the complainant reported a possible violation of law to the department. Based on your representation and our review, we agree the complainant's name may be withheld under the informer's privilege. The remaining basic information must be released.

In summary, with the exception of basic information, the department may withhold the submitted report under section 552.108(a)(1). The complainant's name may be withheld under the informer's privilege. The remaining basic information must be released.

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.

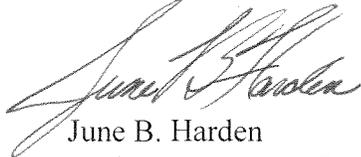
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php).

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<sup>1</sup>Because section 552.108 is dispositive, we need not address your arguments under sections 552.103 and 552.130. Additionally, we note basic information in an offense report generally may not be withheld under section 552.103. Open Records Decision No. 597 (1991).

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 cursive script, appearing to read "June B. Harden".

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/bs

Ref: ID# 439854

Enc. Submitted documents

c: Requestor  
(w/o enclosures)