



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 20, 2011

Ms. Elizabeth L. White
Ross, Banks, May, Cron & Cavin, P.C.
2 Riverway, Suite 700
Houston, Texas 77056

OR2011-18723

Dear Ms. White:

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# 439646 (PIR# 11-333).

The City of League City (the "city"), which you represent, received a request for a specified report. You state the city has released some of the requested information. You claim some of the submitted 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. You raise section 552.101 in conjunction with 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 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. *See Open Records Decision Nos. 515 at 3 (1998), 208 at 1-2 (1978)*. The 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) (citing 8 John H. Wigmore, Evidence in Trials at Common Law, § 2374, at 767 (J. McNaughton rev. ed. 1961))*. 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 (1988). The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You state the information you have marked consists of the identifying information of an individual who reported a violation of a city ordinance regarding at large animals that may consist of a nuisance or a danger. You also state the alleged violation was reported to the city's police department, which is charged with enforcement of the applicable ordinance. You inform us a violation of the ordinance at issue is punishable by a monetary fine. You do not indicate, nor does it appear, the subject of the complaint knows the identity of the complainant. Based on these representations, we conclude the city may withhold the informant's identifying information, which we have marked, under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.¹ However, the remaining information you have marked does not consist of or reveal the informant's identity or identifying information. Accordingly, the remaining information you have marked may not be withheld under section 552.101 on the basis of the informer's privilege.

Section 552.101 also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

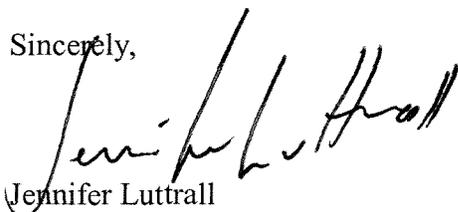
When asserting section 772.118, section 772.218, or section 772.318 of the Health and Safety Code, a governmental body must indicate whether it is part of a 9-1-1 district subject to that section, and whether the originating addresses and telephone numbers of the 9-1-1 callers were supplied by a 9-1-1 service supplier to that 9-1-1 district. *See* Gov't Code § 552.301(e). Furthermore, the 9-1-1 callers should be identified in the submitted information. Upon review, we find no portion of the remaining information consists of an originating address or telephone number of a 9-1-1 caller. Accordingly, the city may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with chapter 772 of the Health and Safety Code. As you raise no further exceptions for the remaining information, it must be released.

¹As our ruling on this information is dispositive, we need not address your remaining argument against its disclosure.

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,

A handwritten signature in black ink, appearing to read "Jennifer Luttrall", written over the typed name.

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 439646

Enc. Submitted documents

c: Requestor
(w/o enclosures)