



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 26, 2012

Ms. Elizabeth L. White
Ross, Banks, May, Cron & Cavin, P.C.
2 Riverway, Suite 700
Houston, Texas 77056-1918

OR2012-01326

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# 444443 (ORR# 11-1694).

The League City Police Department (the "department"), which you represent, received a request for information pertaining to a specified address since October 19, 2011. You state the department has released some of the requested information, but claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses the informer's privilege, which has long been recognized by Texas courts. *E.g.*, *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. *See* Open Records Decision No. 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 1-2 (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 (1988). 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 contend the identities of certain individuals in Exhibits A1 and A2 are protected under the informer's privilege. Upon review, we find you have established the applicability of the informer's privilege to the complainant in Exhibit A1. Therefore, the department may withhold this complainant's identifying information, which we have marked, under section 552.101 in conjunction with the informer's privilege. However, Exhibit 2 is an event report where an individual asked the department questions, but did not report a violation of a statute. Consequently, you have failed to demonstrate how the informer's privilege is applicable to this individual's identity. See Gov't Code § 552.301(e)(1)(A); Open Records Decision Nos. 542 (1990) (concluding Act places on governmental body burden of establishing why and how exception applies to requested information), 532 (1989), 515, 252 (1980). Therefore, the department may not withhold any of the information at issue in Exhibit A2 pursuant to section 552.101 in conjunction with the informer's privilege.

Section 552.130(a) of the Government Code provides the following:

Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
- (3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

Gov't Code § 552.130. The department must withhold the motor vehicle record information we have marked under section 552.130. The remaining information does not consist of motor vehicle record information and, thus, the department may not withhold it under section 552.130.

To conclude, the department may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the informer's privilege. The department must withhold the information we have marked under section 552.130 of the Government Code. The department must release the remaining information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 444443

Enc. Submitted documents

c: Requestor
(w/o enclosures)