



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 12, 2012

Mr. William T. Armstrong III  
Langley & Banack  
745 East Mulberry, Suite 900  
San Antonio, Texas 78212-3166

OR2012-05275

Dear Mr. Armstrong:

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# 450685.

The Alamo Community College District (the "district"), which you represent, received two requests for information related to an investigation involving four named district employees. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim 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). You state the submitted information relates to an ongoing criminal investigation by the district's

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<sup>1</sup>We note section 552.130 of the Government Code is the proper exception to raise to except driver's license numbers from disclosure. Accordingly, we understand the district to raise section 552.130 based on the substance of its arguments. Further, we note that while the district failed to timely assert section 552.130 of the Government Code, this provision constitutes a compelling reason to withhold information, and we will consider its argument under this exception. *See* Gov't Code §§ 552.301, .302.

police department. Based upon your representation and our review, we conclude that release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

We note, however, section 552.108 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* 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note that basic information includes, among other items, an identification and description of the complainant and a detailed description of the offense, but does not include identifying information of a witness or of a victim, unless the victim is also the complainant. *See* ORD 127 at 3-4. Thus, with the exception of the basic front page offense and arrest information, the district may withhold the submitted report based on section 552.108(a)(1) of the Government Code.<sup>2</sup>

You contend portions of the basic information are protected under the informer's privilege. 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 exception encompasses information protected by 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 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. 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) (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.

You state portions of the submitted information reveal the identity of a complainant who reported possible criminal violations to the district's police department. We understand the district's police department is responsible for enforcing these laws, and that the alleged

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<sup>2</sup>As our ruling is dispositive, we need not address your argument under section 552.130, except to note basic information under *Houston Chronicle* does not include motor vehicle record information protected by section 552.130 of the Government Code.

violations carry criminal penalties. You do not indicate, nor does it appear, the subjects of the complaint know the identity of the complainant. Based on your representations and our review, we conclude the district has demonstrated the applicability of the common-law informer's privilege to some of the basic information. Therefore, the district may withhold the complainant's identifying information, which we have marked, in the basic information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. We find, however, the remaining basic information does not reveal the identity of an informer and may not be withheld under the informer's privilege.

In summary, with the exception of basic information, the district may withhold the submitted information based on section 552.108(a)(1) of the Government Code. However, in releasing basic information the district may withhold the complainant's identifying information, which we have marked, under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

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,



Charles Galindo Jr.  
Assistant Attorney General  
Open Records Division

CG/em

Ref: ID# 450685

Enc. Submitted documents

c: Requestors  
(w/o enclosures)