



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 11, 2012

Ms. Jennafer G. Tallant
Denton, Navarro, Rocha & Bernal
Counsel for the City of Carrollton
2517 North Main Avenue
San Antonio, Texas 78212-4685

OR2012-10755

Dear Ms. Tallant:

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# 459359.

The City of Carrollton (the "city"), which you represent, received a request for information regarding specified incidents, including 9-1-1 recordings, computer-aided dispatch notes, dashcam videos, and offense reports. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have submitted information that is not responsive to the present request because it does not pertain to the specified incident. This ruling does not address the public availability of the non-responsive information, which we have marked, and the city need not release non-responsive information in response to this request.

Next, we note you have not submitted any offense reports related to the specified incidents. To the extent any offense reports related to the specified incidents existed on the date the city received the request for information, we assume you have released them. If the city has not released such information, it must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 active criminal prosecution. Based on your representation and our review, we conclude the release of this 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.

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*). Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

You claim certain information is excepted from disclosure under the common-law 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. Section 552.101 of the Government Code 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 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). We note the informer’s privilege does not apply if the subject of the complaint knows the informer’s identity. *See* Open Records Decision No. 208 at 1-2 (1978).

You indicate the basic information identifies complainants who reported a violation of law to the city, and that the violation at issue carries criminal penalties, of which the city’s police department is responsible for enforcement. Upon review, we conclude the city may withhold the identifying information of the first complainant, which we have marked, under

section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, we note the submitted information reflects the subject of the complaint knows the identity of the second complainant. Additionally, we find the remaining basic information does not identify the first complainant for purposes of the informer's privilege. Accordingly, the city may not withhold any of the remaining basic information under section 552.101 in conjunction with the informer's privilege.

In summary, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing basic information, the city may withhold the information we have marked under section 552.101 in conjunction with the common-law 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, 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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/eb

Ref: ID# 459359

Enc. Submitted documents

c: Requestor
(w/o enclosures)