



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

August 7, 2012

Ms. Andrea M. Gardner  
City Manager  
City of Copperas Cove  
P.O. Drawer 1449  
Copperas Cove, Texas 76522

OR2012-12371

Dear Ms. Gardner:

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# 461217.

The City of Copperas Cove (the "city") received a request for all videos, reports, and other information regarding a specified case number. You claim the submitted information is not subject to the Act or is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

You assert the submitted information is not subject to the Act. The Act is applicable to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Act provides "public information" consists of information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; or

(2) for a governmental body and the governmental body owns the information or has a right of access to it.

*Id.* § 552.002(a). Thus, virtually all of the information that is in a governmental body's physical possession constitutes public information that is subject to the Act. *Id.* § 552.002(a)(1); *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). In this instance, the submitted information is maintained by the city's police department (the "department") and pertains to official department business. You do not explain, and the information does not reveal on its face, how this information is not public information under the Act. We, therefore, conclude the submitted information is subject to the Act and must be released, unless the city demonstrates the information falls within an exception to public disclosure under the Act. *See* Gov't Code §§ 552.006, .021, .301, .302.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). Generally, 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 generally raise section 552.108(a)(1) as an exception to disclosure. However, you have not provided any arguments as to how section 552.108(a)(1) applies to the submitted information. Accordingly, we find you have failed to demonstrate how release of the submitted information would interfere with the detection, investigation, or prosecution of crime under section 552.108(a)(1). Therefore, the city may not withhold any of the submitted information under section 552.108(a)(1) of the Government Code.

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.

We understand you seek to withhold the reporting party you have marked under the common-law informer's privilege. However, you have not informed us which law or laws are alleged

to have been violated, and you have not demonstrated that the alleged violations would result in a civil or criminal penalty. We therefore conclude you have not demonstrated this individual's identity is protected by the common-law informer's privilege. Accordingly, none of the submitted information may be withheld under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, title, or registration issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1), (2). We note the submitted information includes the requestor's motor vehicle information, which the city would be required to withhold from the general public under section 552.130 of the Government Code. However, because section 552.130 protects personal privacy, the requestor has a right of access to her motor vehicle information under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, the city must only withhold the motor vehicle record information we have marked, which does not pertain to the requestor, under section 552.130 of the Government Code.

We note you raise section 552.147 of the Government Code, which excepts from required disclosure the social security numbers of living persons. Gov't Code § 552.147. However, upon review, we find the submitted information does not contain any social security numbers subject to section 552.147. Accordingly, none of the submitted information may be withheld on that basis.

In summary, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.<sup>1</sup>

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\\_or1.php](http://www.oag.state.tx.us/open/index_or1.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

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<sup>1</sup>Because the information to be released may be confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

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, reading "Kathryn R. Mattingly". The signature is written in a cursive style with a large, looping "y" at the end.

Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/bhf

Ref: ID# 461217

Enc. Submitted documents

c: Requestor  
(w/o enclosures)