



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 23, 2012

Ms. Erin A. Higginbotham  
Counsel for the City of Carrollton  
Denton, Navarro, Rocha & Bernal, P.C.  
2500 West William Cannon, Suite 609  
Austin, Texas 78745

OR2012-13432

Dear Ms. Higginbotham:

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# 462846.

The City of Carrollton (the "city"), which you represent, received a request for 9-1-1 and radio information and any offense report pertaining to a specific incident. You claim the submitted 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.

Section 552.108(b)(2) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if . . . the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication [.]" Gov't Code § 552.108(b)(2). Section 552.108(b)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). You state the submitted information relates to a closed case that did not result in a conviction or deferred adjudication. Accordingly, we agree section 552.108(b)(2) is generally applicable to the submitted information.

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). In this instance, the submitted information includes a computer-assisted-dispatch (“CAD”) record. In Open Records Decision No. 649 (1996), this office concluded information contained in a CAD report is substantially the same as basic information. See ORD 649 at 3; see also Open Records Decision No. 394 at 3 (1983) (there is no qualitative difference between information contained in radio cards or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*; thus, such information is generally public). Accordingly, with the exception of basic information contained in the CAD report found in Exhibit C, the city may withhold the remaining information under section 552.108(b)(2) of the Government Code.

However, we understand you to claim the basic information is protected under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov't Code § 552.101. The informer's privilege, incorporated into the Act by section 552.101, has long been recognized by Texas courts. *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). It protects from disclosure 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. Open Records Decision Nos. 515 at 3 (1998), 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 (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. However, the informer's privilege protects the content of the communication only to the extent that it identifies the informant. *Roviaro v. United States*, 353 U.S. 53, 60 (1957).

You state the information at issue identifies an individual who reported a possible violation of the law to the city's police department, which has the authority to enforce criminal law. The submitted information does not indicate the subject of the complaint knows the identity of the reporting party. Thus, we conclude the city may withhold the identifying information of the complainant, which we have marked, under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, the remaining

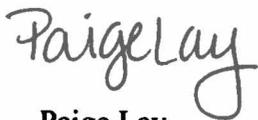
information at issue does not identify the complainant, and the city may not withhold it under section 552.101 in conjunction with the common-law informer's privilege.

In summary, with the exception of basic information, the city may withhold the submitted information under section 552.108(b)(2). In releasing basic information, the city may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The city must release the remaining basic 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](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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/tch

Ref: ID#462846

Enc. Submitted documents

c: Requestor  
(w/o enclosures)