



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 1, 2012

Mr. Jeffrey L. Moore  
Counsel for the City of Roanoke  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2012-17482

Dear Mr. Moore:

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# 470981.

The Roanoke Police Department (the "department"), which you represent, received two requests from the same requestor for six categories of information pertaining to a specified arrest involving a named individual. You claim portions of the submitted information are exempted 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 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer's privilege protects 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. *See Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978)*. The 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." *See 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 note witnesses who provide information in the course of an investigation but do not make the initial report of a violation are not informants for purposes of the common-law informer's privilege.

You state the department seeks to withhold the identifying information of the individual who reported alleged criminal violations to the department. We note the department is responsible for the enforcement of the violations at issue, and these violations carry criminal penalties. There is no indication the subject of the complaint knows the identity of the complainant in the submitted information. Based on your representations and our review, we conclude the department may withhold some of the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, you have failed to demonstrate the remaining information you seek to withhold identifies or tends to identify an individual who reported a violation, and this information may not be withheld on that basis. Accordingly, with the exception of the information we have marked for release, the department may withhold the information you have marked 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 information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state, another state or country, or a local agency authorized to issue an identification document is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the department must withhold the information you have marked, and the additional information we have marked, under section 552.130.

In summary, with the exception of the information we have marked for release, the department may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The department must withhold the information you have marked, and the additional information we have marked, under section 552.130 of the Government Code. The remaining 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](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,

A handwritten signature in cursive script that reads "Sean Opperman".

Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/som

Ref: ID# 470981

Enc. Submitted documents

c: Requestor  
(w/o enclosures)