



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2012

Mr. Jeffrey L. Moore
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2012-20396

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# 478104.

The Roanoke Police Department (the "department"), which you represent, received a request for a specified offense report. You claim portions of the requested information are 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 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). 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).

Although you state that the submitted information pertains to a pending criminal investigation, we note that 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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The department must release basic information under section 552.108(c), even if the information does not literally appear on the front page of an

offense or arrest report. We note that a complainant's home address is generally not considered basic information unless the address is the location of the crime, the place of arrest, or the premises involved. ORD 127 at 4 (stating only identity and description of the complainant are available to the public). In this instance, the only information you seek to withhold under section 552.108 consists of the complainant's home address, which is the premises involved. Accordingly, the department may not withhold this information under section 552.108(a)(1).

However, you claim that the complainant's home address may be withheld 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 common-law informer's privilege, incorporated into the Act by section 552.101, 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). This 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). It 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 Wigmore, Evidence, § 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. The privilege excepts an informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You state the complainant reported a violation of law to the department which carries criminal penalties. We therefore conclude that the department may withhold the apartment number at issue under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, the department may not withhold the apartment name and street address on this basis. As you raise no further exceptions to disclosure, the department must release the remaining 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, 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 black ink that reads "Tamara H. Holland". The signature is written in a cursive, flowing style.

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ac

Ref: ID# 478104

Enc. Submitted documents

c: Requestor
(w/o enclosures)