



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 12, 2013

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2013-05937

Dear Ms. Graham:

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# 483855.

The Mesquite Police Department (the "department") received a request for six specified call for service reports. You state the department will release four of the requested call sheets. You state the department will redact some information pursuant to Open Records Letter Nos. 2012-06459 (2012), 2011-15075 (2011), and 2011-15761 (2011).¹ You claim portions of the submitted information are excepted 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 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

¹Open Records Letter No. 2012-06459 authorizes the department to withhold the price of a motor vehicle in a call sheet under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting a decision under section 552.301 of the Government Code. Open Records Letter Nos. 2011-15075 and 2011-15761 authorize the department to withhold the originating telephone numbers and addresses, respectively, of 9-1-1 callers furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code without requesting a decision from this office.

Code § 552.101. Section 552.101 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). 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 (1998), 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*. 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)*.

You claim the information you have marked in Exhibit #2 reveals the identifying information of an individual who reported a possible violation of the law to the department. However, you have not identified any specific law alleged to have been violated, nor have you explained whether any alleged violation carries civil or criminal penalties. Accordingly, we find the department has failed to demonstrate the informer's privilege is applicable to the information at issue. Thus, we conclude the department may not withhold any of the information at issue under section 552.101 of the Government Code on the basis of the common-law informer's privilege.

Section 552.130 of the Government Code provides information relating to a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. *See Gov't Code § 552.130(a)(2)*. Upon review, we find the department must withhold the motor vehicle record information you have marked in Exhibit #3 under section 552.130 of the Government Code. The remaining information must be released.²

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.

²We note the information being released includes information to which the requestor has a right of access pursuant to section 552.023 of the Government Code. *See Gov't Code § 552.023(a)*; *Open Records Decision No. 481 at 4 (1987)* (privacy theories not implicated when an individual or authorized representative requests information concerning that individual). Therefore, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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/bhf

Ref: ID# 483855

Enc. Submitted documents

c: Requestor
(w/o enclosures)