



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 8, 2014

Ms. Linda A. Samples
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2014-00485

Dear Ms. Samples:

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# 510303.

The El Paso Police Department (the "department") received a request for information pertaining to report number 13-225068. You state you have released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.137 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 Code § 552.101. This section 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 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. *See Open Records Decision No. 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 (1988).

You seek to withhold the identity of an individual who reported an alleged violation of a city ordinance to the department. However, you do not inform us, nor does the submitted information reflect, that the alleged violation carries any civil or criminal penalties. See ORD 279 at 2. Thus, we find you have failed to demonstrate how any portion of the submitted information consists of the identifying information of an individual who made the initial report of a violation of a statute or ordinance to the department for purposes of the informer's privilege. Accordingly, the department may not withhold any portion of the submitted information under section 552.101 of the Government Code on the basis of the common-law informer's privilege.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). See Gov't Code § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Therefore, the department must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.

In summary, the department must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. The remaining information must be released.¹

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.

¹We note the motor vehicle record information being released is generally confidential pursuant to section 552.130 of the Government Code. However, because section 552.130 protects personal privacy, the requestor has a right to her own motor vehicle record information under section 552.023 of the Government Code. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a)(1) without the necessity of requesting a decision under the Act. See Gov't Code § 552.130(c). *But see id.* § 552.130(d)-(e). Thus, if the department receives another request for this same information from a different requestor, subsection 552.130(c) of the Government Code authorizes the department to withhold the motor vehicle record information without the necessity of requesting an attorney general decision.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Paige Thompson". The signature is written in a cursive, flowing style.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 510303

Enc. Submitted documents

c: Requestor
(w/o enclosures)