



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 28, 2014

Mr. Daniel Ortiz  
Assistant City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2014-05206

Dear Mr. Ortiz:

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# 518244 (El Paso Ref.# 14-1026-3951).

The El Paso Police Department (the "department") received a request for the narrative report for a specified incident. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception 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)

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<sup>1</sup> Although you also raise section 552.101 in conjunction with common-law privacy and constitutional privacy for the submitted information, you provide no arguments explaining how these doctrines are applicable to the information at issue. Therefore, we assume you no longer assert these doctrines. *See Gov't Code §§ 552.301, .302.*

(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 state portions of the submitted information identify an individual who reported a violation of section 42.072 of the Texas Penal Code, relating to stalking, a third degree felony. Although you seek to withhold the address and other identifying information of the complainant, we note, and you acknowledge, the submitted information indicates the subject of the complaint knows the identity of the complainant. Therefore, the department may not withhold any of the submitted information under section 552.101 of the Government Code on the basis of common-law informer's privilege. As you raise no other exceptions to disclosure, the submitted information must be released.<sup>2</sup>

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/dls

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<sup>2</sup>We note the requestor in this instance has a right of access to his own social security number and motor vehicle record information, information that would otherwise be excepted from release under the Act. See Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles); see also Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when person or person's agent asks governmental body for information concerning the person). Should the department receive a request for this information from a different requestor, the department may redact social security numbers under section 552.147(b) of the Government Code and motor vehicle record information in accordance with section 552.130(c) of the Government Code without seeking a decision from this office. See Gov't Code §§ 552.147(b), 552.130(c), (d), (e).

Ref: ID# 518244

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

