



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 19, 2014

Ms. Mary Shine  
Assistant Criminal District Attorney  
County of Brazoria  
111 East Locust Street, Suite 408a  
Angleton, Texas 77515

OR2014-16684

Dear Ms. Shine:

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# 542159.

The Brazoria County District Attorney's Office (the "district attorney's office") received a request for a copy of complaints issued against the requestor and her property. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) 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: (1) 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). You inform us the submitted information pertains to pending prosecutions. Based upon this representation, we conclude section 552.108(a)(1) is applicable and release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177

(Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, 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). Basic information refers to the information held to be public in *Houston Chronicle* and includes, amount other categories of information, the identification and description of the complainant and a detailed description of the offense. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of basic information, the district attorney’s office may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>1</sup>

You seek to withhold the complainants’ identifying information from the basic information under section 552.101 of the Government Code in conjunction with the informer’s privilege. Section 552.101 of the Government Code also encompasses the common-law informer’s privilege, which has long been recognized by Texas courts. *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). 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. Open Records Decision Nos. 515 at 3 (1988), 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). 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 the informer’s privilege does not apply where the informant’s identity is known to the individual who is the subject of the complaint. *See* Open Records Decision No. 208 at 1-2 (1978). The privilege excepts the informer’s statement only to the extent necessary to protect that informer’s identity. Open Records Decision No. 549 at 5 (1990).

You state the complainants’ identifying information is protected under the common-law informer’s privilege. You state the complainants reported alleged violations of criminal law to law enforcement. You do not indicate, nor does it appear, the subject of the complaints knows the identities of the complainants. Based on your representations and our review, we conclude the district attorney’s office has demonstrated the applicability of the common-law informer’s privilege to the portions of the basic information that identify the complainants,

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your argument under section 552.103 of the Government Code against its disclosure, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

which we have marked. Accordingly, the district attorney's office may withhold the information we 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 how the remainder of the basic information consists of the identifying information of an individual who made the initial report of a criminal violation to the district attorney's office for purposes of the informer's privilege. Accordingly, the district attorney's office may not withhold any of the remaining basic information under section 552.101 on that basis.

In summary, with the exception of basic information, the district attorney's office may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing basic information, the district attorney's office may withhold information we have marked under section 552.101 in conjunction with the common-law informer's privilege. The remaining basic 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.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,



Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/bhf

Ref: ID# 542159

Enc. Submitted documents

c: Requestor  
(w/o enclosures)