



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 6, 2014

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

OR2014-17799

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# 543552.

The Mesquite Police Department (the "department") received a request for the full report for a specified incident and six specified call sheets. You state the department will release some of the requested information. You state the department will redact some information pursuant to Open Records Letter Nos. 2011-15075 (2011) and 2011-15761 (2011).¹ You claim portions of the submitted information is excepted from disclosure under section 552.101 of the Government Code. 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. You raise section 552.101 in conjunction with the common-law

¹Open Records Letter Nos. 2011-15075 and 2011-15761 are previous determinations authorizing the department to withhold the originating addresses and telephone numbers, 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.

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 1-2 (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 (1988)*. 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)*.

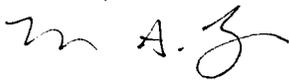
You state the information you have marked reveals the identities of informers who reported alleged violations of the Texas Penal Code to the department. Based on your representations and our review of the information at issue, we conclude the department may withhold the information you have marked that identifies the complainants under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. As you raise no other exceptions to disclosure, the remaining information must be released.

You state portions of the responsive information identify a complainant who reported violations of city ordinances to the Code Enforcement Division of the city's Community Services Department (the "division"). You explain the division is responsible for enforcing the relevant portions of the city ordinances. You also state a violation of the relevant city ordinances is a misdemeanor punishable by fine. You state the requestor does not already know the identity of the informers. Based upon your representations and our review, we conclude the city has demonstrated the applicability of the common-law informer's privilege to some of the information at issue, which we have marked. Therefore, the city may withhold the marked information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, you have failed to demonstrate the remainder of the information you have marked consists of the identifying information of an individual who made the initial report of a criminal violation to the city for purposes of the informer's privilege. Accordingly, the city may not withhold the remaining information you have marked under section 552.101 on that basis.

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, 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 "N. A. Ybarra". The signature is fluid and cursive, with the first name "N." and last name "Ybarra" clearly distinguishable.

Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bhf

Ref: ID# 543552

Enc. Submitted documents

c: Requestor
(w/o enclosures)