



October 20, 1999

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

OR99-2963

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128849.

The Mesquite Police Department (the "department") received a request for copies of two 911 call sheets. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information at issue.

You contend that the call sheets are excepted from disclosure under section 552.108(a)(2). Section 552.108(a)(2) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." You state that neither of the investigations relating to the call sheets resulted in conviction or deferred adjudication. Based upon this representation, we conclude that section 552.108(a)(2) applies to the call sheets.

We note, however, that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of an offense report. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Basic information that must be released includes the identity and description of the complainant. You may withhold all but the basic information in the call sheets from disclosure under section 552.108(a)(2).

You contend that the complainant's identity is excepted from disclosure under section 552.101 of the Government Code in conjunction with the informer's privilege.¹ The informer's privilege has long been recognized by Texas courts. *See 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 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 Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). However, the informer's privilege does not generally protect the identity of a complainant who reports criminal activity to a police department, because the identity of such a complainant is generally considered to be public information. *See generally* Gov't Code § 552.108(c); *Houston Chronicle*, 531 S.W.2d 177; Open Records Decision No. 127 (1976). Basic information about a crime, such as the complainant's identity, can only be withheld in special circumstances. *See e.g.*, Open Records Decision Nos. 366 (1983), 333 (1982). You have not shown special circumstances sufficient to overcome the presumption of public access to basic information about a reported crime. Thus, you may not withhold the complainant's identity from disclosure under the informer's privilege.

The complainant's telephone number and address may, however, be excepted from disclosure under section 552.101 in conjunction with provisions of the Health and Safety Code. Sections 772.118, 772.218 and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 911 callers furnished by a service supplier. *See* Open Records Decision No. 649 (1996). Section 772.118 applies to emergency communication districts for counties with a population over two million. Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 911 telephone numbers and addresses. Health & Safety Code § 772.401, *et seq.* Thus, if the emergency communication district here is subject to section 772.118, 772.218 or 772.318, the originating telephone numbers and addresses on the call sheets are excepted from public disclosure based on section 552.101 as information deemed confidential by statute.

Finally, you contend that some of the information at issue is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 provides in part:

- (a) Information is excepted from the requirement of Section 552.021 if the information relates to:

¹Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses the informer's privilege.

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

We have marked the information that the department must withhold from disclosure pursuant to section 552.130.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref: ID# 128849

Encl. Marked documents

cc: Ms. Sarah Stidham
3408 Bahamas
Mesquite, Texas 75150
(w/o enclosures)