



November 1, 1999

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

OR99-3084

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# 128496.

The Mesquite Police Department (the "department") received a request for a specified call sheet. In response to the request, you submit to this office for review the information at issue. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and claimed exception, and reviewed the submitted information.

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.<sup>1</sup> 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 Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14<sup>th</sup> 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 about a crime, such

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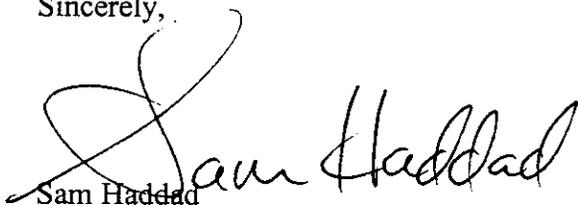
<sup>1</sup>Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses the informer's privilege.

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, in this instance, 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.

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,



Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/nc

Ref: ID# 128496

Encl. Submitted documents

cc: Ms. Christi Davis  
722 Button  
Mesquite, Texas 75150  
(w/o enclosures)