



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 26, 2009

Mr. C. Patrick Phillips  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2009-03910

Dear Mr. Phillips:

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# 338107 (Fort Worth Public Information Request No. 1352-09).

The City of Fort Worth (the "city") received a request for information pertaining to three specified 9-1-1 calls. You state that you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You claim that portions of the requested information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the requestor contends that he was not properly notified of the city's request for a ruling from this office as required by section 552.301(d)(2) of the Government Code. *See id.* § 552.301(d) (governmental body must provide requestor with copy of governmental body's written communication to attorney general asking for decision). Pursuant to section 552.302, a governmental body's failure to timely provide the requestor with a copy of its written communication to this office results in the presumption that the information is public. The city states that it received the written request for information on

December 30, 2008. The city informs this office that it was closed on January 1, 2009 for the New Year Holiday. The city requested a decision from our office on January 14, 2009. *See id.* § 552.308(a) (prescribing standards for timeliness of action by United States or common or contract carrier). We note the submitted information indicates the city simultaneously sent a copy of the request for a decision to the requestor. Further, the city has represented to this office that the requestor's copy of the request for a decision was deposited in the United States Mail on January 14, 2009. *See id.* Based on the submitted information and the city's representation, we find that the city has provided satisfactory proof of the date on which it provided the requestor with a copy of its request for a decision from this office. *See Gov't Code* § 552.308(a)(2). Accordingly, we will address the city's argument against disclosure.

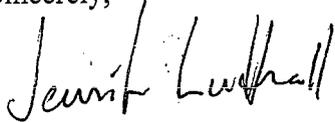
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. The common-law informer's privilege, incorporated into the Act by section 552.101, has long been recognized 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). This 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 that 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). It 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)). 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. The privilege excepts an informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You assert that the information you have marked reveals the identity of an informer who reported a violation of Texas Penal Code § 42.01 ("Disorderly Conduct"), a class C misdemeanor, to the city's police department. Based on your representations and our review of the submitted information, we conclude that the city has demonstrated the applicability of the common-law informer's privilege to the informer's identifying information. Therefore, the city may withhold the informer's identifying information in the submitted documents, which you have marked, and the submitted audio recordings pursuant to section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The remaining 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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/eeg

Ref: ID# 338107

Enc. Submitted documents

c: Requestor  
(w/o enclosures)