



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 9, 2009

Mr. Ronald J. Bounds
City of Corpus Christi, Legal Department
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2009-09438

Dear Mr. Bounds:

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# 348685.

The City of Corpus Christi (the "city") received a request for seven categories of information related to a specified dog bite incident. You state that the city will release some responsive information to the requestor. You claim that portions of the submitted 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.

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. This section encompasses information made confidential by other statutes. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier confidential. *See id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. *See* Health & Safety Code § 772.318. You state that the city is part of an emergency communication district established under section 772.318 of the Health and Safety Code. Thus, to the extent the information we have marked in the submitted 9-1-1 call report was provided by a 9-1-1 service supplier, the city must withhold

such information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The city may not withhold any of the remaining submitted information on this basis, and also may not withhold the marked information to the extent such information was not provided by a 9-1-1 service supplier.

You also raise section 552.101 in conjunction with the common-law informer's privilege, which Texas courts have long recognized. *See, e.g., 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 that 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)*. 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). However, witnesses who provide information in the course of an investigation but do not make the initial report of the violation are not informants for the purposes of claiming the informer's privilege. 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 that the submitted information relates to a report of an alleged violation of the city's Code of Ordinances to the Animal Control Services Division of the city's Health Department, which is responsible for enforcing violations of the ordinance at issue. You also provide documentation showing that violations of this ordinance are punishable by fine. We have marked information that tends to identify the person who reported the alleged violation and we agree that this information is excepted from disclosure by section 552.101 in conjunction with the common-law informer's privilege. However, the remaining information you have marked for exception on this basis does not appear to identify the initial informer. Thus, the city may not withhold any of the remaining information under the common-law informer's privilege.

Finally, we note that the submitted information contains a license plate number, which we have marked. Section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]"¹ Gov't Code § 552.130(a)(1), (2). Accordingly, if the marked license plate

¹The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

number belongs to a Texas-registered vehicle, the city must withhold this information pursuant to section 552.130. Conversely, if this information relates to an out-of-state vehicle, the city may not withhold this information under section 552.130.

In summary: (1) to the extent the information we have marked in the submitted 9-1-1 call report was provided by a 9-1-1 service supplier, the city must withhold this information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code; (2) the city may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege; (3) to the extent the license plate number we have marked belongs to a Texas-registered vehicle, the city must withhold this information under section 552.130 of the Government Code; and (4) the city must release the remainder of the submitted information.

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, 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,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/rl

Ref: ID# 348685

Enc. Submitted documents

cc: Requestor
(w/o enclosures)