



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2011

Mr. Timothy V. Molnes
Chief of Police/Assistant City Manager
City of Copperas Cove
P.O. Drawer 1449
Copperas Cove, Texas 76522

OR2011-16223

Dear Mr. Molnes:

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# 439752.

The City of Copperas Cove (the "city") received a request for information pertaining to a specified arrest. You claim the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal case. Based on your representations, we conclude section 552.108(a)(1) is generally applicable to the submitted information. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note the submitted information includes a citation, which we have marked. Because a copy of a citation is provided to an individual who is cited, we find release of the marked citation will not interfere with the detection, investigation, or prosecution of crime. *See*

Gov't Code § 552.108(a)(1). We therefore conclude the citation may not be withheld under section 552.108(a)(1).

We also note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle* and includes an identification and description of the complainant. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). In this instance, you seek to withhold the complainant’s identity under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision,” Gov’t Code § 552.101, and encompasses the 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 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 Nos. 515 at 3 (1998), 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.” *See* Open Records Decision No. 279 at 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 4-5 (1988). The privilege excepts the informer’s statement only to the extent necessary to protect the informer’s identity. *See* Open Records Decision No. 549 at 5 (1990).

We conclude the city may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. With the exception of that information, the city must release basic information in accordance with section 552.108(c). *See* ORD 127 at 3-4. The city may withhold the rest of the submitted information under section 552.108(a)(1) of the Government Code, except for the marked citation, which must be released.¹

You also seek to withhold portions of the citation under sections 552.130 and 552.147 of the Government Code. Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov’t Code § 552.130(a)). Section 552.147 provides that “[t]he social security number of a living person is excepted

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of the information subject to section 552.108.

from” required public disclosure under the Act. Gov’t Code § 552.147(a). We note, however, that sections 552.130 and 552.147 protect personal privacy. In this instance the information you have marked in the citation belongs to the requestor. As such, the requestor has a right of access to his own driver’s license information and social security number under section 552.023 of the Government Code. *See id.* § 552.023(a) Open Records Decision No. 481 (1987). Therefore, the city may not withhold the information you have marked in the citation under sections 552.130 and 552.147.

In summary, the city must release the submitted citation. With the exception of basic information, the city may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code. In releasing basic information, the city may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the informer’s privilege.

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, toll free at (888) 672-6787.

Sincerely,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ag

Ref: ID# 439752

Enc. Submitted documents

c: Requestor
(w/o enclosures)