



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 26, 2013

Ms. Elizabeth L. White  
Counsel for the City of League City  
Ross, Banks, May, Cron, & Cavin, P.C.  
2 Riverway, Suite 700  
Houston, Texas 77056-1918

OR2013-04876

Dear Ms. White:

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# 482130 (File No. 3607-1; PIR No. 2475).

The League City Police Department (the "department"), which you represent, received a request for three specified event reports and one specified offense report. You state you will release some of the responsive information to the requestor. You claim some of the submitted 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 submitted information.

Section 552.108(a)(2) 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 . . . 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." Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information you have highlighted relates to closed criminal investigations that did not result

in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) applies to the information at issue.

However, as you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. We note basic information includes a detailed description of the offense, the property involved, and the identity of the complainant, but does not include the identity of a witness or of a victim, unless the victim is also the complainant. See Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Basic information does not include information protected by section 552.130 of the Government Code. See *id.* We also note the submitted information includes event reports. In Open Records Decision No. 649 (1996), this office concluded information contained in a computer-assisted dispatch (“CAD”) report is substantially the same as basic information. See ORD 649 at 3; see also Open Records Decision No. 394 at 3 (1983) (there is no qualitative difference between information contained in radio cards or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*; thus, such information is generally public). Accordingly, with the exception of basic information, the department may withhold the information you have highlighted under section 552.108(a)(2) of the Government Code.<sup>1</sup>

We understand you to claim the common-law informer’s privilege for some of the remaining information. 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. 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 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 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. 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).

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

You assert the informer's privilege for the identifying information of the complainants. Upon review, we find the department may withhold the identifying information we have marked in Exhibit A-1 under section 552.101 in conjunction with common-law informer's privilege. However, the remaining information does not identify an informer for the purposes of the informer's privilege. Further, you do not inform us what criminal or civil statutes were reported to be violated in the remaining reports. Accordingly, the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

In summary, with the exception of basic information, the department may withhold the information you have highlighted under section 552.108(a)(2) of the Government Code. The department may withhold the identifying information we have marked in Exhibit A-1 under section 552.101 in conjunction with 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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle R. Garza". The signature is fluid and cursive, with a large, stylized initial "M" and "G".

Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/som

Ref: ID# 482130

Enc. Submitted documents

c: Requestor  
(w/o enclosures)