



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 11, 2014

Ms. Sarah R. Martin
Assistant City Attorney
Legal Division
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2014-10076

Dear Ms. Martin:

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# 526749 (Arlington PD Reference 14947).

The Arlington Police Department (the "department") received a request for all call cards, call sheets, incidents, and offenses, as well as any emails involving the department, the fire department, or the code enforcement division regarding an animal complaint, associated with a specified address between January 1, 2013 and April 1, 2014.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you state the information submitted as Exhibit B consists of a portion of the records responsive to the request. Thus, to the extent any further information responsive to this request existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't

¹We note the department sought and received clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we note the CD submitted as a portion of Exhibit B contains several spreadsheets, of which three contain information responsive to the present request. We have marked the responsive cells in these spreadsheets. The remainder of the information in the spreadsheets pertains to addresses other than the one specified in the request, and is therefore non-responsive. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.²

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. You raise section 552.101 in conjunction with the common-law 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 (1988), 208 at 1-2 (1978). The 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).

You state the information at issue reveals the identity of a complainant who reported criminal violations of section 8.01 of the City of Arlington’s Code of Ordinances to the city’s Animal Services Manager. You provide documentation showing a violation of section 8.01 is punishable by a fine of up to \$2000. Based on your representation and our review, we conclude the department may withhold the identifying information of the complainant, which we have marked, under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. The remaining information, however, does not identify an individual who reported a violation of the law, and the department may not withhold it under section 552.101 in conjunction with the common-law informer’s privilege. As you

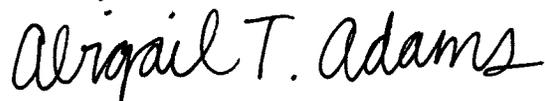
²As our ruling is dispositive, we need not address your argument under section 552.108.

raise no other exceptions to disclosure, the remaining responsive 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/ac

Ref: ID# 526749

Enc. Submitted documents

c: Requestor
(w/o enclosures)