



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 12, 2014

Ms. Natalie Broaddus
Assistant District Attorney
Brazoria County Criminal District Attorney's Office
111 East Locust, Suite 408A
Angleton, Texas 77515

OR2014-10169

Dear Ms. Broaddus:

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# 525732.

The Brazoria County Sheriff's Office (the "sheriff's office") received a request for all information relating to specified complaints made against the requestor by a named individual. 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.

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. Section 552.101 encompasses information made confidential by other statutes, such as chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). We understand Brazoria County is part of an emergency communication district that is subject to section 772.318. You state Brazoria County has a

population of approximately 300,000 and the originating telephone numbers contained in the submitted information were provided by a service supplier. Thus, based on your representations and our review, we determine the sheriff's office must withhold the address and telephone numbers of the 9-1-1 caller, which you have marked, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information in Exhibit D relates to a concluded case that did not result in a conviction or deferred adjudication. Based on your representation, we conclude section 552.108(a)(2) is applicable to the information at issue.

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff's office may withhold the information in Exhibit D under section 552.108(a)(2) of the Government Code.

Section 552.101 of the Government Code also encompasses the informer's privilege, which 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). 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 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) (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 (1988).

You assert some of the remaining information in Exhibit C and the complainant's identifying information in Exhibit D is protected by the common-law informer's privilege. However,

the request reflects the subject of the complaint knows the identity of the complainant. Thus, the sheriff's office may not withhold any of the remaining information or basic information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

We note the remaining information in Exhibit C contains information subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.¹ Gov't Code § 552.130(a). The requestor has a right of access to the requestor's own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) ("person or a person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). However, the sheriff's office must withhold the motor vehicle record information that does not pertain to the requestor, which we have marked in Exhibit C, under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold the address and telephone numbers of the 9-1-1 caller, which you have marked, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. With the exception of basic information, which must be released, the sheriff's office may withhold the information in Exhibit D under section 552.108(a)(2) of the Government Code. The sheriff's office must withhold the motor vehicle record information we have marked in Exhibit C under section 552.130 of the Government Code. The sheriff's office must release the remaining information in Exhibit C.

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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 525732

Enc. Submitted documents

c: Requestor
(w/o enclosures)