



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 22, 2014

Mr. John P. Beauchamp  
General Counsel  
Texas Commission on Law Enforcement  
6330 East Highway 290, Suite 200  
Austin, Texas 78723-1035

OR2014-14852

Dear Mr. Beauchamp:

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# 533686.

The Texas Commission on Law Enforcement (the "commission") received three requests from three different requestors for information regarding a specified investigation. You state you will release some information. You claim some of the submitted information is 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." *See* Gov't Code § 552.101. Section 552.101 of the Government Code also encompasses information protected by the common-law 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). 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 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. The privilege excepts the informer’s statement only to the extent necessary to protect the informer’s identity. *See* ORD 549 at 5. 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. Upon review, we find you have not demonstrated any of the submitted information reveals identifying information of an individual who made an initial report of criminal activity to the commission. Accordingly, we conclude the commission may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with the informer’s privilege.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.<sup>1</sup> *See* Gov’t Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure” *Id.* § 552.1175(a)(1). Some of the submitted information pertains to an individual who may be subject to section 552.1175. Thus, to the extent the information we marked pertains to an individual subject to section 552.1175(a), and the individual at issue elects to restrict access to this information in accordance with section 552.1175(b), the commission must withhold the information we marked under section 552.1175 of the Government Code. If the individual whose information we marked is not subject to section 552.1175(a) or no election is made, the commission may not withhold this information under section 552.1175 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Therefore, the commission must withhold the personal e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.

In summary, to the extent the information we marked pertains to an individual subject to section 552.1175(a), and the individual at issue elects to restrict access to this information in accordance with section 552.1175(b), the commission must withhold the information we marked under section 552.1175 of the Government Code. The commission must withhold

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

the personal e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/ds

Ref: ID# 533686

Enc. Submitted documents

c: Requestor  
(w/o enclosures)