



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 29, 2014

Ms. Natasha Brooks
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702

OR2014-19551

Dear Ms. Brooks:

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# 541639 (Midland ID# 14935).

The City of Midland (the "city") received a request for records of 9-1-1 calls reporting activities occurring at a specified address during a specified time period. You claim 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 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 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 that 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). 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 2 (1981) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (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).

You state the submitted information identifies complainants who reported violations of law to a law enforcement entity. You do not indicate, nor does it appear, the subjects of the complaints know the identities of the complainants. Based on your representations and our review, we conclude that the city may withhold the complainants’ identifying information, which we have marked, under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, we find the city has not demonstrated how any of the remaining information identifies an individual who has reported a violation of statute to the police or similar law enforcement agency. Consequently, the city may not withhold any of the remaining information under section 552.101 on that basis.

We note the submitted information includes motor vehicle record information subject to section 552.130 of the Government Code.¹ Section 552.130 provides information relating to a motor vehicle operator’s or driver’s license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. *See* Gov’t Code § 552.130(a)(1)-(2). The city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code, and may withhold the complainants’ identifying information, which we have marked, under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. The remaining information must be released.

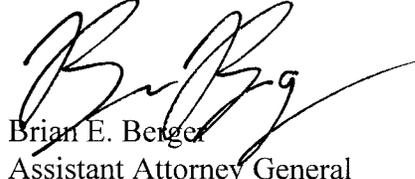
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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.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. *See* Open Records Decision Nos. 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,

A handwritten signature in black ink, appearing to read "B. Berger", written over the typed name.

Brian E. Berger
Assistant Attorney General
Open Records Division

BB/ac

Ref: ID# 541639

Enc. Submitted documents

c: Requestor
(w/o enclosures)