



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2014

Ms. Teresa J. Brown
Senior Open Records Assistant
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2014-23511

Dear Ms. Brown:

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# 548251 (Plano Tracking #WILP100214, #WILA100614).

The Plano Police Department (the "department") received two requests from different requestors for information pertaining to a specified incident.¹ You state you have released some information to the requestors. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

¹We understand the department sought and received clarification of the information requested from the second requestor. See Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²Although you do not raise section 552.130 of the Government Code in your brief to our office, we understand you to raise this exception based on your markings in the submitted information.

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 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 submitted information pertains to a case that concluded in a result other than conviction or deferred adjudication. Based on your representation and our review, we agree section 552.108(a)(2) is applicable to the information you have marked and the submitted compact disc.

However, we note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 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*). We note basic information includes, among other items, the identification and description of the complainant. *See id.* Thus, with the exception of basic information, the department may withhold the information you have marked and the submitted compact disc under section 552.108(a)(2) of the Government Code.

You seek to withhold the identifying information of the complainant from the basic information under section 552.101 of the Government Code in conjunction with the informer's privilege. 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. This section 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); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). 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 report does not already know their identities. Open Records Decision Nos. 515 at 2-3 (1988), 434 at 1-2 (1986), 208 at 1-2 (1978). For the informer's privilege to apply, the report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at (1990), 515 at 3-4. The privilege affords protection to individuals who report violations of statutes to criminal 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)).

We understand portions of the remaining information identify a complainant who reported a possible violation of the law to the department, which is charged with the enforcement of the law. You do not indicate, nor does it otherwise appear, the subject of the complaint knows the identity of the complainant. Based on your representation and our review, we find the department may withhold the identifying information of the complainant from the basic information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, 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. *See* Gov't Code § 552.130. Upon review, we agree the information you have marked consists of motor vehicle record information. However, we note section 552.130 protects personal privacy. Thus, as you acknowledge, the first requestor has a right of access to his own motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, the department must withhold the motor vehicle information we have marked from both requestors under section 552.130. The department must withhold the remaining motor vehicle record information you have marked from the second requestor under section 552.130 of the Government Code.

In summary, with the exception of basic information, the department may withhold the information you have marked and the submitted compact disc under section 552.108(a)(2) of the Government Code. When releasing basic information, the department may withhold the identifying information of the complainant under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The department must withhold the motor vehicle information we have marked from both requestors under section 552.130 of the Government Code. Further, the department must withhold the remaining motor vehicle record information you have marked from the second requestor under section 552.130 of the Government Code. 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Alley Latham
Assistant Attorney General
Open Records Division

AKL/dls

Ref: ID# 548251

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)