



January 6, 2015

Mr. Robert E. Hager  
Counsel for the City of Lancaster  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR2015-00120

Dear Mr. Hager:

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# 548860 (Ref. # 68788).

The Lancaster Police Department (the "department"), which you represent, received two requests from the same requestor for information pertaining to a specified incident and MDT activity from a specified police officer's vehicle on a specified date during a specified time period, including any requests for dispatch to run a license plate. You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.130 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. 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 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)).

You seek to withhold portions of the submitted information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. You state the complainant reported a possible violation of the law to the department. We note in some circumstances, where an oral statement is captured on tape and the voice of the informant is recognizable, it may be necessary to withhold the entire audio statement to protect the informant's identity. ORD 434 at 2. You do not indicate, nor does it appear, the subject of the complaint knows the identity of the informer. Based on your representations and our review, we conclude the department may withhold the submitted audio and video recordings in their entireties, as well as the information we have marked in the submitted documents, under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.<sup>1</sup>

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. We note section 552.130 protects privacy interests. In this instance, we are unable to determine whether the motor vehicle information we have marked belongs to the requestor. In the event the information at issue belongs to the requestor, the requestor has a right of access to this information. *See id.* § 552.023(a) ("A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the 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 individuals request information concerning themselves). To the extent the motor vehicle information we have marked does not belong to the requestor, the department must withhold such information under section 552.130 of the Government Code.

In summary, the department may withhold the submitted audio and video recordings in their entireties, as well as the information we have marked in the submitted documents, under section 552.101 of the Government Code in conjunction with the common-law informer's

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument for this information.

privilege. To the extent the information we have marked does not belong to the requestor, the department must withhold the motor vehicle information we have marked under section 552.130 of the Government Code. The department must release the remaining information.

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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/bhf

Ref: ID# 548860

Enc. Submitted documents

c: Requestor  
(w/o enclosures)