



January 8, 2015

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

OR2015-00313

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# 549359.

The Texas Commission on Law Enforcement (the "commission") received a request for information pertaining to a specified investigation concerning the requestor. You claim some of the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information contains peace officers' Texas Commission on Law Enforcement ("TCOLE") identification numbers. In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. We understand an officer's TCOLE identification number is a unique computer-generated number assigned to peace officers for identification in the commissioner's electronic database, and may be used as an access device number on the TCOLE website. Accordingly, we find the officers' TCOLE identification numbers do not constitute public information under section 552.002 of the Government Code. Therefore, the TCOLE identification numbers are not subject to the Act and need not be released to the requestor.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

¹We note you have withdrawn your claim under section 552.108 of the Government Code.

Gov't Code § 552.101. This exception 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 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. 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 (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.

You state the submitted information reveals the identities of complainants who reported possible violations of chapter 1701 of the Occupations Code to the commission. You explain the Enforcement Unit of the commission is comprised of commissioned investigators who investigate both administrative and criminal violations of law as they relate to the commission's mission. *See* Occ. Code § 1701.160 (commission may commission certified peace officers as investigators employed by commission for purpose of assisting commission in administering chapter 1701); *see also id.* §§ 1701.551-.553. We note, however, the purpose of the privilege is to encourage "citizens" to report wrongful behavior to the appropriate officials. *See Roviario v. United States*, 353 U.S. 53, 59 (1957). The privilege is not intended to protect the identities of public officials who have a duty to report violations of the law. In this case, the complainants are law enforcement officers. Because the public employees were acting within the scope of their employment, the informer's privilege does not protect their identities. *Cf. United States v. St. Regis Paper Co.*, 328 F. Supp. 660, 665 (W.D. Wis. 1971) (concluding that public officer may not claim informer's reward for service it is his or her official duty to perform). Accordingly, the commission may not withhold the complainants' information under section 552.101 of the Government Code in conjunction with the informer's privilege.

We note some of the remaining information may be subject to section 552.1175 of the Government Code.² Section 552.1175 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. *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). Section 552.1175 encompasses a personal cellular telephone number, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988).

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

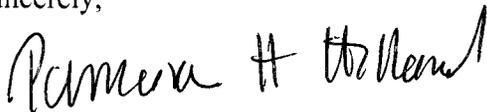
Some of the remaining information pertains to a peace officer not employed by the commission. Thus, to the extent the officer whose information is at issue elects to restrict access to his information in accordance with section 552.1175(b), and the cellular service is not paid for by a governmental body, the commission must withhold the cellular telephone number we have marked under section 552.1175 of the Government Code. Conversely, if the peace officer at issue does not elect to restrict access to the information in accordance with section 552.1175(b), or the cellular service is paid for by a governmental body, the commission may not withhold this information under section 552.1175.

In summary, the TCOLE identification numbers are not subject to the Act and need not be released to the requestor. The commission must withhold the cellular telephone number we have marked under section 552.1175 of the Government Code, if the officer whose information is at issue elects to restrict access to his information in accordance with section 552.1175(b) and the cellular service is not paid for by a governmental body. The commission 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, 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# 549359

Enc. Submitted documents

c: Requestor
(w/o enclosures)