



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 20, 2015

Ms. Delietrice Henry
Open Records Assistant
City of Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2015-09781

Dear Ms. Henry:

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# 564307 (ORR #MOOS030215).

The Plano Police Department (the "department") received a request for information pertaining to calls to the department regarding the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* 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 information at issue relates to an investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) of the Government Code is applicable to the submitted information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 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 considered to be basic information). We note basic information includes, among other items, an identification and description of the complainant. ORD 127. Thus, with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.

You argue a portion of the basic information is protected under section 552.101 of the Government Code. 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. You claim section 552.101 in conjunction with the common-law informer’s privilege, which Texas courts have long recognized. *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 (1998), 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 involve 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* Open Records Decision No. 549 at 5 (1990).

You seek to withhold the information you have indicated pursuant to the informer’s privilege. You claim the individual reported a violation or possible violation of law to officials charged with enforcement of that law. You do not indicate, nor does it appear, the subject of the complaint knows the identity of the complainant. Based on your representation and our review, we conclude the department has demonstrated how most of the information you have marked identifies an individual who made a report of a violation of any criminal or civil law for the purposes of the informer’s privilege. Therefore, with the exception of the information we have marked for release, the department may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, we find the department has not demonstrated how any of the remaining information at issue identifies an individual who has reported a violation of statute to the department or a similar law enforcement agency. Therefore, the department may not withhold any of the remaining information at issue under section 552.101 of the Government Code in conjunction with the informer’s privilege.

In summary, with the exception of the basic information, which must be released, the department may withhold the submitted information pursuant to section 552.108(a)(2) of the Government Code. In releasing basic information, with the exception of the information we have marked for release, the department may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

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,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

Ref: ID# 564307

Enc. Submitted documents

c: Requestor
(w/o enclosures)