



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 21, 2015

Ms. Aimee Alcorn  
Assistant City Attorney  
Legal Department  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2015-14819

Dear Ms. Alcorn:

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# 572187 (CCPD File No. SSa12).

The Corpus Christi Police Department (the "department") received a request for information pertaining to a specified case report. The department claims portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code. We have received comments from a third party. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments 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." *Id.* § 552.101. The department raises 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 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. *See Open Records Decision No. 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 1-2 (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 (1988). 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).

The department states the information it has marked shows the identity of a person furnishing information of a possible violation of the law to the department. There is no indication the subject of the complaint knows the identity of the informer. Based upon these representations and our review, we conclude the common-law informer’s privilege is applicable to the information at issue. Therefore, the department may withhold the information it has marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege.<sup>1</sup>

Section 552.152 of the Government Code provides,

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov’t Code § 552.152. The department states the information it has marked reveals the identity of undercover narcotics police officers and release of the information would subject the officers to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the information at issue. Accordingly, the department must withhold the information it has marked under section 552.152 of the Government Code.

In summary, the department may withhold the information it has marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. The department must withhold the information it has marked under section 552.152 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.

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<sup>1</sup>As our ruling is dispositive, we need not address the department’s remaining argument against disclosure of this information.

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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 572187

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)