



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 23, 2015

Mr. Stephen D. Gates
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79701

OR2015-24592

Dear Mr. Gates:

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# 594372 (ORR No. 18044).

The City of Midland (the "city") received a request for information pertaining to a specified disturbance call. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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. You raise 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). However, individuals who provide information in the course of an investigation but do not make the initial report of the violation are not informants for the purposes of claiming the informer's privilege. The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 at 5 (1990).

You state the information you have marked reveals the identity of a complainant who reported a possible violation of law that carries a criminal penalty to the city's police department. There is no indication the subject of the complaint knows the identity of the complainant. Based on your representations and our review, we conclude the information you have marked identifies the complainant; thus, the city may withhold the address you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

We note you seek to withhold the telephone number of a 9-1-1 caller. In Open Records Letter No. 2015-23311 (2015), this office issued a previous determination to the city authorizing it to withhold the originating telephone number and address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code without requesting a decision from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Provided the originating telephone number of the 9-1-1 caller at issue was furnished by a service supplier established in accordance with chapter 772, the city must withhold the telephone number you have marked in accordance with the previous determination issued in Open Records Letter No. 2015-23311.

In summary, the city may withhold the address you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. Provided the originating telephone number of the 9-1-1 caller at issue was furnished by a service supplier established in accordance with chapter 772, the city must withhold the telephone number you have marked in accordance with the previous determination issued in Open Records Letter No. 2015-23311. 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](#), 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,

A handwritten signature in black ink that reads "Britni Ramirez". The signature is written in a cursive, flowing style.

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/bhf

Ref: ID# 594372

Enc. Submitted documents

c: Requestor
(w/o enclosures)