



January 27, 2015

Ms. Josette Flores
Assistant City Attorney
Office of the City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2015-01537

Dear Ms. Flores:

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# 551401.

The El Paso Police Department (the "department") received a request for all criminal reports involving a specified address for a specified time period, information pertaining to a specified incident involving the requestor's client, and information pertaining to a named individual. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted information pertaining to the specified incident. Thus, to the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).*

¹ Although you do not raise section 552.130 of the Government Code in your brief, we understand you to assert this exception based on your markings.

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses the 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 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).

You seek to withhold the name, address, and phone number of an individual who reported one or more violations or possible violations of the law to the department. You explain the allegation at issue is a possible violation of section 42.01 of the Texas Penal Code. You inform us a violation of this section is a misdemeanor. You state there is no indication the subject of the complaint knows the identity of the informer. Based upon your representations and our review, we conclude the department has demonstrated the applicability of the common-law informer’s privilege to portions of the submitted information. Therefore, the department may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. The remaining information, however, does not identify an individual who reported a violation of the law, and the department may not withhold it under section 552.101 in conjunction with the common-law informer’s privilege.

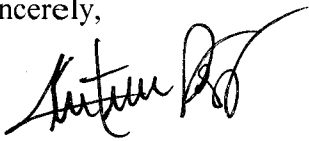
Section 552.130 provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130. Upon review, we find the department must withhold the information you have marked, and the additional information we have marked and indicated, under section 552.130 of the Government Code.

In summary, the department may withhold the information we have marked and indicated under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. The department must withhold the information you have marked, and the additional information we have marked and indicated, 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, 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, appearing to read 'Cristian Rosas-Grillet', with a stylized flourish at the end.

Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/cbz

Ref: ID# 551401

Enc. Submitted documents

c: Requestor
(w/o enclosures)