



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 1, 2015

Ms. Judy Hickman
Assistant Supervisor Records Division
Beaumont Police Department
P.O. Box 3827
Beaumont, Texas 77704

OR2015-18312

Dear Ms. Hickman:

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# 577767.

The Beaumont Police Department (the "department") received a request for the accident report, 9-1-1 calls, images, and videos related to a specified incident. You state you have released some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a 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.¹ Gov't Code § 552.130(a). The submitted video and audio recordings contain motor vehicle record information subject to section 552.130. You state the department lacks the technological capability to redact information from these recordings. Based on this representation, we conclude the department must withhold the video recordings

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

in their entireties under section 552.130.² See Open Records Decision No. 364 (1983). However, because the department had the ability to copy the submitted audio recording in order to submit the requested information for our review, we believe the department has the capacity to produce copies of only the non-confidential portions of the audio recording at issue. Accordingly, the department must withhold the motor vehicle record information in the audio recording at issue under section 552.130 of the Government Code.

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

Section 552.101 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 state releasing the 9-1-1 audio recording would violate the informer’s privilege. However, the submitted information reflects the subject of the complaint knows the identity of the complainant. Accordingly, we find the department failed to demonstrate the applicability of the common-law informer’s privilege to the information at issue. Accordingly, the department may not withhold the 9-1-1 audio recording under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege.

You also raise section 552.117 of the Government Code for the 9-1-1 audio recording. Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov’t Code § 552.117(a)(1). We note section 552.117 protects only certain personal information of public employees, not the information of private citizens. Accordingly, we find

²As our ruling is dispositive, we need not address the department’s remaining arguments against disclosure of this information.

section 552.117 is inapplicable to the information at issue, and the department may not withhold it on that basis.

In summary, the department must withhold the video recordings we have indicated in their entirety under section 552.130. The department must withhold the motor vehicle record information in the audio recording at issue 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 cursive script that reads "Katelyn Blackburn-Rader".

Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

KB-R/akg

Ref: ID# 577767

Enc. Submitted documents

c: Requestor
(w/o enclosures)