



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 13, 2017

Ms. Sameera Mahendru  
Mr. Rashaad V. Gambrell  
Senior Assistant City Attorneys  
City of Houston  
P O Box 1562  
Houston, Texas 77251-1562

OR2017-12938

Dear Ms. Mahendru & Mr. Gambrell:

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# 668790 (GC Nos. 24334 and 24342).

The City of Houston (the "city") received two requests from the same requestor for information pertaining to a specified address. You state you will release some of the requested information. You claim some of 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. *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). We note the informer’s privilege does not apply where the informant’s identity is known to the individual who is the subject of the complaint. *See* ORD 208 at 1-2.

You state the submitted information identifies a complainant who reported suspected violations of section 10-451 of the city’s code to the city’s 3-1-1 system. You inform us the calls were forwarded to the city’s Department of Neighborhoods, which is authorized to investigate and enforce the violations at issue. Further, you state a violation of section 10-451 carries civil penalties. You also state the subject of the complaints does not know the identity of the complainant. Based upon your representations and our review, we conclude the city has demonstrated the applicability of the common-law informer’s privilege to the information you have marked and the information we have marked. Therefore, the city may withhold the marked information under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege.

We note some of the remaining information is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136 states “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136; *see also id.* § 552.136(a) (defining “access device”). Accordingly, we find the city must withhold the account numbers we have marked under section 552.136 of the Government Code.

In summary, the city may withhold the marked information under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. The city must withhold the account numbers we have marked under section 552.136 of the Government Code. The city 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.

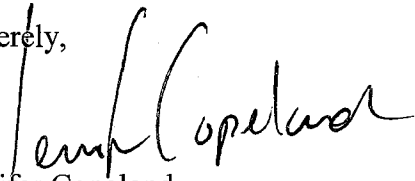
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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

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 "Jennifer Copeland". The signature is written in a cursive style with a large initial "J".

Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/sb

Ref: ID# 668790

Enc. Submitted documents

c: Requestor  
(w/o enclosures)