



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 6, 2019

Ms. Marie N. Johnson
Counsel for the City of Denison
Messer, Fort & McDonald, P. L. L. C.
6371 Preston Road, Suite 200
Frisco, Texas 75034

OR2019-34335

Dear Ms. Johnson:

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# 808512 (ORR ID# D102919DT).

The City of Denison (the "city"), which you represent, received a request for two specified incident reports. 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.

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. This section 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*

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

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 some of the submitted information reveals the identities of individuals who made reports of possible violations of law to the city's police department. Upon review, we conclude you demonstrated the applicability of the common-law informer's privilege to the information you have marked. Therefore, the city may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.²

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. See Gov't Code § 552.130. Accordingly, the city must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

In summary, the city may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege and must withhold the motor vehicle record information you have marked under section 552.130 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

² As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Neal". The signature is stylized with a large, sweeping initial "T" and a cursive "Neal".

Tim Neal
Assistant Attorney General
Open Records Division

TN/jxd

Ref: ID# 808512

Enc. Submitted documents

c: Requestor
(w/o enclosures)