



M. Shelby Percy
E-Mail: spearcy@njdhs.com

December 21, 2019

Shayan Gaziani
MuckRock News
DEPT MR 84136
411A Highland Ave
Somerville, MA 02144-2516

RE: City of Richardson, Texas Request for Attorney General Opinion
Relating to Public Information Request Dated December 9, 2019

Dear Shayan Gaziani:

Please be advised that as City Attorney for the City of Richardson, Texas, we have requested a decision from the Texas Attorney General about whether some of the information responsive to your request dated December 9, 2019 is excepted from disclosure pursuant to Section 552.101 of the Texas Government Code. A copy of our request for a decision from the Texas Attorney General is enclosed.

Please note that we previously received a request for the same information that you seek. The Attorney General's Office has already concluded that we may rely upon Open Records Letter No. 2019-26136 as a previous determination regarding the same information at issue.

Thank you for your attention to this matter. If you have any questions in this regard, please do not hesitate to contact me.

Sincerely,

/s/ M. Shelby Percy

M. Shelby Percy
Assistant City Attorney
City of Richardson



**POLICE
DEPARTMENT**
P.O. Box 831078
Richardson, TX
75083-1078
972-744-4800

/sj

Enclosures

cc: Texas Attorney General Open Records Division with enclosures



M. Shelby Percy
E-Mail: spearcy@njdhs.com

December 21, 2019

Open Records Division
Office of the Attorney General
State of Texas
P.O. Box 12548
Austin, Texas 78711-2548

RE: Public Information Request Received by the City of Richardson Police Department, from Shayan Gaziani, dated December 9, 2019

Dear Open Records Division:

As the City Attorney for the City of Richardson, we are writing to request an opinion on the above referenced request for public information, pursuant to Section 552.101 of the Texas Government Code. A true and correct copy of the request is attached as Exhibit "A". The request was received by the City on December 9, 2019. We responded to the requestor by a separate letter along with a portion responsive information, which is attached hereto as Exhibit "B". We have enclosed a true and correct copy of a representative sample of the responsive document we seek to withhold attached as Exhibit "C".

The City asserts that a portion of requested information is excepted from public disclosure pursuant to Section 552.101 of the Texas Government Code. The "Confidential Information" exception states that "[i]nformation is excepted from [required public disclosure] if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Tex. Gov't Code § 552.101. Under this exception, disclosure of private information cannot be required unless it is of "legitimate public concern." See Texas Comptroller of Pub. Accounts, 354 S.W.3d at 347 (quoting *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), cert. denied, 430 U.S. 931 (1977)). As private employees of a private company, Ring employees' names and contact information are not a matter of legitimate public concern. Therefore, all information identifying the Ring employees is excepted from



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disclosure pursuant to the confidential information exception of Section 552.101 of the Texas Government Code.

In accordance with the provisions of the Public Information Act, we are providing your office with all relevant documents. We respectfully request that you review these records and issue an opinion with regards to the confidential or public nature of the documents. Should you have further questions regarding this matter or require further information, please do not hesitate to contact this office. Thank you for your attention herein.

Please reference file number P003800 in your response.

Sincerely,

/s/ M. Shelby Percy

M. Shelby Percy
Assistant City Attorney
City of Richardson

/sj

Enclosures

cc: Shayan Gaziani without enclosures



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 18, 2019

Ms. Shelby Percy
Assistant City Attorney
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2019-26136

Dear Ms. Percy:

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# 786224 (File No. P001970).

The Richardson Police Department (the "department") received a request for four categories of information pertaining to Ring, LLC.¹ You state you have released some of the requested information. You state you will redact the dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2017-00069 (2017).² You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

¹ We note the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

² Open Records Letter No. 2017-00069 authorizes the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general decision.

³ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you marked relates to open criminal investigations or prosecutions. Based upon this representation, we conclude the release of the information you marked would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) of the Government Code is applicable to the information you marked and may be withheld on that basis.⁴

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The department asserts the information you marked pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) of the Government Code is applicable to the information you marked and may be withheld on that basis.

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.” *Id.* § 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).

⁴ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

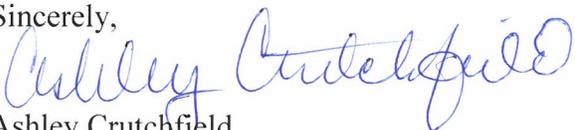
You state the information you marked reveals the identity of complainants who reported possible violations of state law and city ordinances that carry criminal penalties to police officers of the department, which are authorized to enforce the laws and ordinances at issue. There is no indication the subjects of the complaints know the identities of the complainants. Based on your representations and our review, we conclude the information you have marked identifies the complainants; thus, the department may withhold the information you marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

In summary, the department may withhold the information you marked under sections 552.108(a)(1) and 552.108(a)(2) of the Government Code. The department may withhold the information you marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. 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 <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 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/gw

Ref: ID# 786224

Enc. Submitted documents

c: Requestor
(w/o enclosures)