



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 8, 1992

Ms. Cathy J. Sisk
Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR92-316

Dear Ms. Sisk:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16018.

The Harris County Health Department (the "department") has received a request for information relating to a complaint filed concerning a nuisance caused by the accumulation of refuse. Specifically, the requestor seeks "information of the person or person's who has filed the complaint at 3514 Fuqua." You claim that the name, address, and telephone number of the complainant are excepted from required public disclosure by the informer's privilege as incorporated into the Open Records Act by section 3(a)(1). Open Records Decision No. 549 (1990) at 4-5. As you do not address the remainder of the requested information, we presume it has been or will be provided to the requestor. See Open Records Decision No. 363 (1983).

The informer's privilege applies when a person reports violations of the law to officials having a duty to enforce the law. Open Records Decision No. 515 (1988). The informer's privilege serves to encourage the flow of information to the government by protecting the identity of the informer. *Id.* If the contents of the informer's statement would tend to reveal the identity of the informer, the privilege protects the statement itself to the extent necessary to preserve the informer's anonymity. *Id.* The basis for the informer's privilege is to protect informers from the fear of retaliation and thus encourage them to cooperate with law enforcement efforts. *Id.* The informer's privilege under section 3(a)(1) is applicable not only to law enforcement agencies, but also to "administrative officials having a duty of inspection or of law enforcement within their particular spheres". Open Records

Decision No. 279 (1981) at 2 (*citing* Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961) and cases cited therein); *see also* Attorney General Opinion MW-575 (1982) at 2.

The "Complaint Activity Report" includes the name, address, and telephone number of the individual who made a complaint concerning a nuisance caused by the accumulation of refuse. Chapter 343 of the Health and Safety Code governs the abatement of public nuisances in counties having a population of 125,000 or more. Section 343.011 of the Health and Safety Code provides, in part:

(a) A person may not cause, permit, or allow a public nuisance under this section on any premises.

(b) A public nuisance is:

(1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;

...

(3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests.

Section 343.012 of the Health and Safety Code provides, in part:

(a) A person commits an offense if:

(1) the person violates Section 343.011(a); and

(2) the nuisance remains unabated after the 30th day after the date on which the person receives notice from a county official, agent, or employee to abate the nuisance.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.

The complaint report submitted to us for review clearly documents a complaint revealing a possible violation of the law. You advise us that the complaint was voluntarily submitted absent any solicitation and that the name of the informer and the nature of the complaint are not known to anyone who might have reason to resent the informer's communications. Accordingly, the name, address, and telephone number of the informer may be withheld under section 3(a)(1) of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-316.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Opinion Committee

KHG/GCK/lmm

Ref.: ID# 16018

cc: Mr. Ray Heathcock
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Houston, Texas 77047