



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 18, 1996

Mr. John Steiner
Division Chief
City of Austin
Law Department
P.O. Box 1088
Austin, Texas 78767-1088

OR96-2134

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102032.

The City of Austin (the "city") received a request for:

[A]ny and all records, documentation, of any document concerning meetings, interviews conducted with me or my employees, interviewers, questions, responses given, time losses, number of individuals involved and taxpayers moneys used for this investigation. The documents should be all inclusive.

You believe that some of the requested information, which you have marked, is excepted from disclosure by section 552.101 of the Government Code. You have submitted a sample of the requested information.¹

Section 552.101 excepts from disclosure information that is confidential by law, either constitutional, statutory, or by judicial decision. The informer's privilege, incorporated into the Open Records Act by section 552.101, is actually a governmental

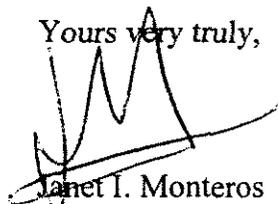
¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

entity's privilege to withhold from disclosure the identity of those persons who report violations of law. The privilege recognizes the duty of citizens to report violations of law and, by preserving their anonymity, encourages them to perform that duty. *Roviaro v. United States*, 353 U.S. 53, 59 (1957). The informer's privilege protects the identity of a person who reports a violation or possible violation of law to officials charged with the duty of enforcing the particular law, provided that the subject of that information does not already know the informer's identity. See Open Records Decision Nos. 515 (1988), 191 (1978). This office has held that the informer's privilege also applies when the informer reports 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. 515 (1988) at 2. The privilege may protect the informer's identity and any portion of his statement that may tend to reveal his identity. *Id.*

In most cases this office has held that the informer's privilege does not protect the identities of individuals who report activities falling outside the realm of criminal or quasi-criminal law enforcement. See *id.* at 3; see also Open Records Decision No. 218 (1978) at 2 (complainants' identities not protected because no criminal conduct reported and complainants expected administrative rather than criminal action). Here, the city does not claim a violation of criminal law or of civil law with criminal penalties. Thus, we conclude that the identities of the employees interviewed are not excepted from disclosure under the informer's privilege.² We also note that the tapes of the meetings between the requestor and the city may not be withheld from the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

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²But see Open Records Decision No. 169 (1977) (special circumstances may warrant withholding information to protect privacy).

Ref.: ID# 102032

Enclosures: Submitted documents

cc: Mr. Oscar G. Gonzalez
c/o Mr. John Steiner
City of Austin
Legal Department
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(w/o enclosures)