



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 6, 1998

Ms. Monica L. Strickland
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR98-0039

Dear Ms. Strickland:

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# 111561.

The City of Midland (the "city") received a request for the written transcript of a 911 service call. You have provided the requestor with a copy of the transcript with the name of the caller redacted. Although you do not assert any specific exception to public disclosure under chapter 552 of the Government Code, you claim that the caller's identity is excepted from disclosure under the informer's privilege. We have considered your arguments and reviewed the submitted information.

The informer's privilege is incorporated into section 552.101 of the Government Code, which excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. Texas courts long have recognized the informer's privilege. *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). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. 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 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5. Where statements evidence no wrongdoing or violation of law, they are not

protected by the informer's privilege. Open Records Decision No. 549 (1990); *and see* Open Records Decision No. 515 (1988) (where letters do not describe conduct which is clearly criminal, they are not excepted by the informer's privilege).

Upon review of the requested information, it is not clear to this office, nor have you explained, how it relates to a violation of a specific criminal or quasi-criminal civil law. Thus, the identity of the caller may not be withheld from disclosure under the informer's privilege in conjunction with section 552.101 of the Government Code.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/ glg

Ref.: ID# 111561

Enclosures: Submitted documents

cc: Mr. G. William Fowler
Attorney at Law
3800 East 42nd Street, Suite 600
Odessa, Texas 79762
(w/o enclosures)