

February 9, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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JOHN CORNYN
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Mr. John Steiner
Division Chief
City of Austin
Law Department
P.O. Box 1546
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OR99-0401

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# 122224.

The City of Austin (the "city") received a request for "the name and report from the person or persons who reported this incident to management on 11/17/98." You seek to withhold the responsive document under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted document.

Section 552.101 incorporates the informer's privilege.¹ This 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 that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 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 2 (1981) (citing Wigmore, Evidence, § 2374, at

¹Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

767 (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 4-5 (1988). After careful review, it appears that the city received the requested information in an administrative/managerial capacity, not a law enforcement capacity. Therefore, we do not believe that the informer's privilege is applicable in this instance. The city must release the requested information.

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 122224

Enclosures: Submitted documents

cc: Ms. Betty Gadness
c/o John Steiner
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(w/o enclosures)