



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 16, 2009

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P. O. Box 9277
Corpus Christi, Texas 78469-9277

OR2009-17793

Dear Ms. Aguilar:

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# 364519.

The Corpus Christi Police Department (the "department") received a request for all records pertaining to event # 0908035966. You state that the department has made some of the requested information available to the requestor. You claim that the remaining information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You raise section 552.101 in conjunction with the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer's privilege protects 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. *See Open Records Decision Nos. 515 at 3 (1998), 208 at 1-2 (1978)*. The 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." *See Open Records Decision No. 279 at 2 (1981) (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 at 2 (1990), 515 at 4-5 (1988)*. The privilege excepts the

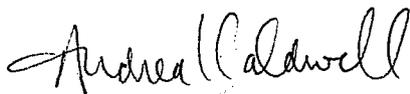
informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You seek to withhold the submitted audio recording in its entirety and the information you have marked in the documents under the informer's privilege. In some circumstances, where an oral statement is captured on tape and the voice of the informant is recognizable, it may be necessary to withhold the entire statement to protect the informant's identity. Open Records Decision No. 434 at 2 (1986). You state that the submitted audio recording and the marked information identify an individual who reported alleged violations of the City Code of Ordinances section 13-45, which makes it unlawful for a person to maintain a public nuisance, and chapter 683 of the Texas Transportation Code, which makes it unlawful for a person to abandon a vehicle, to the department. You state that the alleged violations reported are within the purview of the department's enforcement authority and indicate the identity of the individual is not known by the subject of the complaints or the requestor. We understand the alleged violations to carry criminal and civil penalties. Based on your representations and our review, we conclude that the informer's privilege is applicable to the entire audio recording and the identifying information that you have marked in the documents. Thus, the department may withhold the audio recording in its entirety and the marked information in the documents pursuant to section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The remaining submitted information must be released.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/eeg

Ref: ID# 364519

Enc. Submitted documents

c: Requestor
(w/o enclosures)