



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2010

Ms. Sally Jo Hahn
Attorney
Texas Parks & Wildlife Department
4200 Smith School Road
Austin, Texas 78744-3291

OR2010-07182

Dear Ms. Hahn:

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# 380236.

The Texas Parks & Wildlife Department (the "department") received a request for all information related to a specified citation. You state some information has been released to the requestor. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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. This section encompasses information protected by other statutes, including section 414.009 of the Government Code, which provides in pertinent part:

(a) A person who is a member or employee of the [crime stoppers advisory council] or who accepts a report of criminal activity on behalf of a crime

¹Although you initially raised section 552.108 of the Government Code, you have not provided any arguments in support of this claim. Thus, we assume the department no longer asserts section 552.108 as an exception against disclosure. See Gov't Code § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested).

stoppers organization commits an offense if the person intentionally or knowingly divulges to a person not employed by a law enforcement agency the content of a report of a criminal act or the identity of the person who made the report without the consent of the person who made the report.

Id. § 414.009. You state the submitted information represents a report submitted to a crime stoppers organization. *See id.* § 414.001(2)(B) (defining "crime stoppers organization" as a public organization that is operated on a local or statewide level, that pays rewards to persons who report to the organization information about criminal activity, and that forwards the information to the appropriate law enforcement agency). Accordingly, we conclude that the information we have marked is confidential under section 414.009 of the Government Code and must be withheld under section 552.101 of the Government Code. However, the remaining information does not contain the content of a report of a criminal act, nor does it reveal the identity of the person who made the report. Thus, no portion of the remaining information is confidential under section 414.009 of the Government Code and no portion of it may be withheld under section 552.101 on that basis.

Section 552.101 also encompasses information protected by the common-law informer's privilege, which has long been recognized by Texas courts. *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). The informer's 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 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). 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. We also note that the privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You state that the remaining information reveals the identity of a person reporting a potential violation of the law. You further state that the violation at issue carries a criminal penalty. The remaining information, however, does not contain identifying information of the informer. Thus, we conclude the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with the informer's privilege.

In summary, the department must withhold the information we have marked under section 414.009 of the Government Code in conjunction with section 552.101 of the Government Code. The remaining 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,

A handwritten signature in cursive script that reads "Jennifer Burnett". The signature is written in black ink and is positioned above the typed name.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 380236

Enc. Submitted documents

c: Requestor
(w/o enclosures)