



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 24, 2010

Mr. Jeffrey L. Moore
Attorney for City of Roanoke
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2010-07470

Dear Mr. Moore:

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# 385544.

The Roanoke Police Department (the "department"), which you represent, received a request for the probable cause affidavit and accompanying narrative for a specified arrest. You state you will provide some responsive information to the requestor. You claim some of the submitted 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. The common-law informer's privilege, incorporated into the Act by section 552.101, 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). 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). It 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 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. The privilege excepts an informer's statement only to the extent necessary to protect the informer's identity. See Open Records Decision No. 549 at 5 (1990).

You assert the information you have marked reveals the identity of an individual who reported a possible criminal violation to the department. Based on your representations and our review of the submitted information, we conclude the department has demonstrated the applicability of the common-law informer's privilege to the complainant's identifying information. Therefore, the department may withhold the information you have highlighted, except as we have marked for release, 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 to the requestor.

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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 385544

Enc. Submitted documents

cc: Requestor
(w/o enclosures)