ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 16, 2010

Mr. David M. Swope
Assistant County Attorney
Harris County Attorney's Office
1019 Congress, 15th Floor
Houston, Texas 77002

OR2010-14085

Dear Mr. Swope:

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# 393775 (CA File # 10GEN1308).

The Harris County Animal Control Division (the "division") received a request for the name of the individual who called the division regarding the requestor's dogs. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor seeks only the name of the individual who called the division regarding the requestor's dogs. You have submitted a document that contains information beyond the name of the caller. Thus, the portions of the submitted document that do not contain the name of the caller are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request and the division is not required to release that information in response to the request.

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 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. *See* Open Records Decision No. 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 1-2 (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 (1988).

You state the portion of the responsive information that you have highlighted identifies a complainant who reported a potential violation of animal control laws to the division. You explain the division is responsible for enforcing the Rabies Control Act of 1981, the rules of the Texas Board of Health that comprise the minimum standards of rabies control, the Harris County rules to control rabies, and the rules adopted by the Texas Board of Health under the quarantine provisions of the Rabies Control Act of 1981. You also state a violation of the county's animal control laws is a Class C misdemeanor. Based upon your representations and our review, we conclude the division has demonstrated the applicability of the common-law informer's privilege to the responsive information at issue. Therefore, the division may withhold the name of the complainant, which you have highlighted, pursuant to section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/tp

Ref: ID# 393775

Enc. Submitted documents

c: Requestor
(w/o enclosures)