



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 18, 2010

Mr. B. Chase Griffith  
Brown & Hofmeister, L.L.P.  
For City of McKinney  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2010-15762

Dear Mr. Griffith:

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# 401672 (ORR #10-2852).

The McKinney Police Department (the "department"), which you represent, received a request for information related to case number 06-58919. You claim that the requested 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.

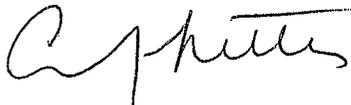
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. The common-law informer's privilege, incorporated into the Act by section 552.101, has long been recognized by Texas courts. *E.g.*, *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 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). The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 at 5 (1990).

You assert the submitted information contains the identifying information of an individual who reported a possible violation of the Penal Code to the department. You also inform us that the violation at issue is subject to criminal penalties. You do not indicate, nor does it appear, the subject of the complaint knows the identity of this informer. 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 information we have marked. Accordingly, the department may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. We note the remaining information does not consist of identifying information of an informer. Therefore, the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. As you raise no other exception to disclosure, the remaining 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 401672

Enc. Submitted documents

c: Requestor  
(w/o enclosures)