



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 20, 2011

Mr. Whitt L. Wyatt
Assistant City Attorney
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2011-07174

Dear Mr. Wyatt:

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# 418250 (file no. 11-149).

The Richardson Police Department (the "department") received a request for information relating to a specified incident. You state you have released some information to the requestor. You claim 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. Section 552.101 encompasses the 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. Open Records Decision No. 515 at 3 (1988). 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) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 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). However, the informer's privilege does not apply where the informant's identity is known to the individual who is the subject of the complaint. See Open Records Decision No. 208 at 1-2 (1978).

You claim Exhibit C contains identifying information of persons who reported possible violations of criminal laws to the department, which has the authority to enforce driving while intoxicated violations. You further state such violations carry criminal penalties. Based on your representations and our review, we conclude the department has demonstrated the applicability of the common-law informer's privilege to a portion of the information in Exhibit C that identifies the complainant. Therefore, the department may withhold the complainant's name and telephone number under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 418250

Enc. Submitted documents

c: Requestor
(w/o enclosures)