



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 25, 2011

Mr. Jesse Blakley, Jr.
Assistant Criminal District Attorney
County of Brazoria
County Courthouse
111 East Locust, Suite 408A
Angleton, Texas 77515

OR2011-10654

Dear Mr. Blakley:

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# 424988.

The Brazoria County Sheriff's Department (the "sheriff") received a request for all call sheets and impound records for animals at a specified address. You state you have provided some responsive information to the requestor. You claim that a portion of the remaining 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. 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 Nos. 515 at 3 (1988), 208 at 1-2 (1978)*. The 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." *See 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. The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. See Open Records Decision No. 549 at 5 (1990).

You argue that the submitted information reveals the identity of individuals who notified the sheriff of the need to impound animals and contacted the sheriff for other matters. You state that in the area of animal control the sheriff has the authority to impound dangerous dogs pursuant to Chapter 882 of the Texas Health and Safety Code. See Health & Safety Code § 822.042(c). You also state that the requestor does not know the identity of the individuals who reported the violations to the sheriff. Based on your representation and our review, we conclude the informer's privilege is applicable to the information we have marked. Accordingly, the sheriff may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, you have failed to demonstrate how the remaining information identifies or tends to identify an individual who reported a violation of a statute to the sheriff. Therefore, no portion of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. As you raise no additional exceptions, the remaining information must be released.

Finally, you request that this office issue a previous determination that would permit the sheriff to withhold from disclosure information identifying the complainant in call sheets without the need of requesting a ruling from this office. We decline to issue such a previous determination at this time. Accordingly, 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,



Kirsten Brew
Assistant Attorney General
Open Records Division

KB/em

Ref: ID# 424988

Enc. Submitted documents

c: Requestor
(w/o enclosures)