



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 25, 2012

Mr. Warren M. S. Ernst  
Chief of the General Counsel Division  
City of Dallas  
1500 Marilla Street, Room 7DN  
Dallas, Texas 75201

OR2012-17101

Dear Mr. Ernst:

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# 471316.

The Dallas Police Department (the "department") received a request for "all code compliance offense records" related to two specified addresses. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered your arguments and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>While you also raise section 552.101 in conjunction with Texas Rule of Evidence 508 for your informer's privilege argument, we only address your claim under the common-law informer's privilege as this office has concluded section 552.101 does not encompass discovery privileges. See Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). We further note you also claim the informer's privilege under Texas Rule of Evidence 508. The Texas Supreme Court has held the Texas Rules of Evidence are "other law" for purposes of section 552.022 of the Government Code. See *In re City of Georgetown*, 53 S.W.3d 328 (Tex. 2001); see also Gov't Code § 552.022(a). However, section 552.022 is not applicable to the information you seek to withhold under the informer's privilege, and we do not address your argument under rule 508.

<sup>2</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Section 552.101 excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses the informer’s privilege, which 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 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) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J. 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 (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).

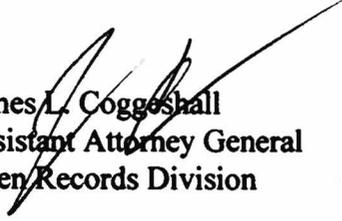
You state the information you have marked reveals the identities of complainants who reported possible violations of sections 18-13(a) and 27-11(b) of the Dallas City Code using the city’s 3-1-1 system. You inform us the 3-1-1 system routes the reports of alleged violations to the proper law enforcement entities, including the city’s police and code enforcement departments. You explain violations of sections 18-13(a) and 27-11(b) are Class C misdemeanors punishable by fine. There is no indication the subject of the complaint knows the identity of the complainants. Upon review, we find some of the information you have marked does not identify a complainant; thus, the department may not withhold this information, which we have marked for release, under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, we agree the department may withhold the remaining information you have marked under section 552.101 in conjunction with the common-law informer’s privilege. The department must release the remaining information.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tch

Ref: ID# 471316

Enc. Submitted documents

c: Requestor  
(w/o enclosures)