



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 27, 2013

Ms Linda Pemberton
Paralegal
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

OR2013-11014

Dear Ms. Pemberton:

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# 491574 (ORR# W010411).

The City of Killeen (the "city") received a request for all police activity cards for certain addresses. You state the city released one responsive card. 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.

Section 552.101 of the Government Code excepts from disclosure information made confidential by law, including judicial law. You assert the informer's privilege protects the identity of the informant on the submitted activity cards including the name, address, and location information. The informer's privilege, incorporated into the Act by section 552.101, 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). It 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. Open Records Decision Nos. 515 at 3 (1988), 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 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.

You state the informants in the activity cards are complainants who reported incidents of improperly restrained animals. You state the complainants reported violations of section 6-35 of the city's ordinances concerning public nuisances. You state a violation of section 6-35 is punishable by fine. You do not indicate, nor does it appear, the subject of the complaints knows the identity of the complainants.

We find you have established the informer's privilege applies to the information that identifies the complainants in the submitted information. See Open Records Decision No. 156 (1977) (holding name of person who complains to city's animal control division is excepted from disclosure by informer's privilege so long as information furnished to city concerns potential violation of state law). Thus, we conclude the city may withhold the caller name, address and telephone number in the submitted information based on section 552.101. We have marked the documents accordingly. The city 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kay Hastings
Assistant Attorney General
Open Records Division

KH/sdk

Ref: ID# 491574

Enc. Submitted documents

c: Requestor
(w/o enclosures)