



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 26, 2016

Ms. Captoria Brown
Paralegal
City of Carrollton
1945 East Jackson Road
Carrollton, Texas 75006

OR2016-23959

Dear Ms. Brown:

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# 631972 (City ID: 8299).

The City of Carrollton (the "city") received a request for information pertaining to a complaint involving a specified address during a specified time. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.147 of the Government Code.¹ We have considered the exceptions 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. *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

¹Although you also raise section 552.108 of the Government Code, you have not provided any argument to support this exception. Therefore, we do not address section 552.108. *See* Gov't Code §§ 552.301(e)(1)(A), .302. Although you do not raise section 552.147 of the Government Code in your brief, we understand you to raise this exception based on your markings.

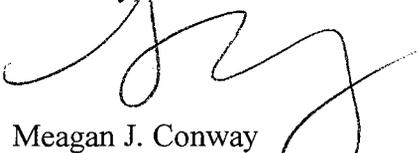
Decision No. 279 at 1-2 (1981) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J. McNaughton Rev. Ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4 (1988). However, witnesses who provide information in the course of an investigation but do not make a report of the violation are not informants for the purposes of claiming the informer's privilege. 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). We note 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* ORD 208 at 1-2.

You state the information you marked identifies a complainant who reported a violation of a city ordinance to the city. You explain the city's animal services department is responsible for enforcing the relevant portions of the city ordinance. You also state a violation of the relevant city ordinance carries civil or criminal penalties. We have no indication the subject of the complaint knows the identity of the informer. Based upon your representations and our review, we conclude the city has demonstrated the applicability of the common-law informer's privilege to the information you marked. Therefore, the city may withhold the marked information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.² 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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/akg

²As our ruling is dispositive, we need not address your remaining argument against disclosure of the information at issue.

Ref: ID# 631972

Enc. Submitted documents

c: Requestor
(w/o enclosures)