



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 27, 2016

Ms. Stephanie Berry
Assistant City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR2016-24016

Dear Ms. Berry:

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# 632219.

The City of Denton (the "city") received a request for all complaints made to animal control regarding the requestor's address for a specified time period. 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 considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). You indicate the city is part of an emergency communication district that is subject to section 772.318. The city states some of the information at issue consists of the originating telephone numbers and addresses of 9-1-1 callers furnished to the city by a service supplier. Thus, the city must withhold the

telephone numbers and addresses of the 9-1-1 callers you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.¹

Section 552.101 of the Government Code also encompasses 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 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)*. However, individuals who provide information in the course of an investigation but do not make the initial 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)*.

You state the submitted information identifies complainants who reported violations of the city's code of ordinances. You explain the city is responsible for enforcing the relevant law. You also state a violation of the relevant law carries civil penalties. You do not indicate, nor does it appear, the subject of the complaint knows the identity of the complainants. Based upon your representations and our review, we conclude the city has demonstrated the applicability of the common-law informer's privilege to the remaining information we marked. Therefore, the city may withhold the information we marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. *See Open Records Decision No. 156 (1977)* (name of person who makes complaint about another individual to city's animal control division is excepted from disclosure by informer's privilege so long as information furnished discloses potential violation of state law). However, we find you failed to demonstrate the remaining information identifies the complainants at issue. Thus, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

In summary, the city must withhold the telephone numbers and addresses of the 9-1-1 callers you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The city may withhold the remaining

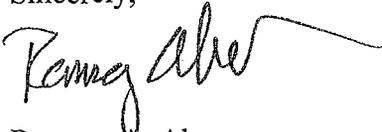
¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

information we marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/bw

Ref: ID# 632219

Enc. Submitted documents

c: Requestor
(w/o enclosures)