



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 12, 2016

Ms. Jessica D. Richard
Assistant City Attorney
City of New Braunfels
424 South Castell Avenue
Austin, Texas 78130

OR2016-00953

Dear Ms. Richard:

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# 594142 (PD# 303015).

The New Braunfels Police Department (the "department") received a request for information pertaining to a specified property for a specific time period. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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 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 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 Nos. 515 at 3 (1998), 208 at 12 (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*

¹Although you raise section 552.108 of the Government Code, you make no arguments to support this exception. Therefore, you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

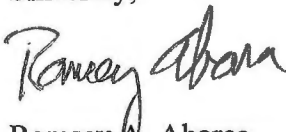
(1981) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J. McNaughton rev. ed. 1961)). The report must involve a violation of a criminal or civil statute. See Open Records Decision Nos. 582 at 2 (1990), 515 at 45. The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. See Open Records Decision No. 549 at 5 (1990).

You seek to withhold the identifying information of an individual who reported a possible violation of criminal law to the department. There is no indication the subject of the complaint is aware of the informer's identity. Based on your representations, we agree the department may withhold the identifying information you have marked in the submitted call report, and the corresponding information in the submitted audio recording, under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The remaining submitted information must be released.

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/dls

Ref: ID# 594142

Enc. Submitted documents

c: Requestor
(w/o enclosures)