



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 8, 2017

Mr. Zachary Brown  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR2017-09788

Dear Mr. 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# 663046 (PIR# 33542).

The City of Austin (the "city") received a request for information pertaining to a specified incident. You state the city has released some of the requested information. You claim some of the submitted information is 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 "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by the common-law informer's privilege, which 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). 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. 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

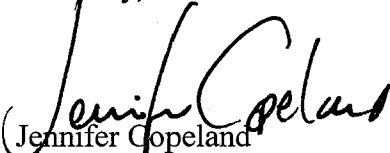
Decision No. 279 at 2 (1981). The report must be of a violation of a criminal or civil statute. See Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5.

You have marked information the city seeks to withhold under the common-law informer's privilege. You state the marked information identifies a complainant who reported possible violations of section 3-2-15 of the city's Code of Ordinances to the city's Animal Control Services Department, which has the authority to enforce this section of the code. You state a violation of section 3-2-15 is punishable by fine of up to \$2,000. Further, the request for information reveals the subject of the complaint does not already know the identities 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 information we marked. Accordingly, 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. However, we find the remaining information does not identify the informer for purposes of the informer's privilege, and the city may not withhold it under section 552.101 on that ground. 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](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,

  
Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/sb

Ref: ID# 663046

Enc. Submitted documents

c: Requestor  
(w/o enclosures)