



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 8, 2017

Mr. Whitt L. Wyatt
Counsel for City of Allen
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard Street Suite 1800
Dallas, Texas 75201

OR2017-09879

Dear Mr. Wyatt:

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# 656517 (File Reference # 84155).

The Allen Police Department (the "department"), which you represent, received a request for the name and address of a specified individual. 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.

Initially, we note the request for information seeks only the name and address of a specified individual. Thus, the remainder of the information you have submitted is not responsive to the request. This ruling does not address the public availability of any information that is not responsive to the request, and the department need not release such information in response to this request.

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. This exception 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 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 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 (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 4-5. 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 responsive information reveals the identity of an individual who submitted a barking dog complaint to the department. However, you have not explained whether the incident is a violation of law that carries any civil or criminal penalties. Thus, we conclude you have failed to demonstrate the applicability of the common-law informer’s privilege and the responsive information may not be withheld under section 552.101 on that basis. As no further exceptions to disclosure have been raised, the department must release the responsive 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/nmd

Ref: ID# 656517

Enc. Submitted documents

c: Requestor
(w/o enclosures)