



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 1, 2018

Ms. Courtney M. White
Assistant City Attorney
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79105-1971

OR2018-02268

Dear Ms. White:

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# 694123.

The City of Amarillo (the "city") received a request for a specified incident report. 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 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, 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). 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 information you marked reveals the identity of an informer who reported an alleged violation of section 8-2-5 of the city municipal code to the city. We note the city's Animal Management and Welfare Department is authorized to enforce code violations. We understand a violation of this ordinance is punishable by fine. Based on your representations and our review of the information at issue, we conclude the city may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, we find you have failed to demonstrate the remaining information at issue identifies an informer for purposes of the informer's privilege. Accordingly, 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. The city must release the remaining information.¹

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,



Kelly McWethy
Assistant Attorney General
Open Records Division

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¹We note the information being released contains information to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code § 552.023; *see also* Open Records Decision No. 481 at 4 (1987). Accordingly, if the city receives another request for this same information from a different requestor, the city must again seek a ruling from this office.

Ref: ID# 694123

Enc. Submitted documents

c: Requestor
(w/o enclosures)