



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 14, 2018

Mr. Adam Anderson
Assistant County Attorney
Montgomery County Attorney's Office
501 North Thompson Street, Suite 300
Conroe, Texas 77301

OR2018-03581

Dear Mr. Anderson:

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# 701832 (ORR File No. 18PIA019).

The Montgomery County Animal Control Authority (the "authority") received a request for a specified case file. You claim 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 claim 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 the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. *See Open Records Decision Nos. 515 at 3 (1998), 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." *See Open Records Decision No. 279 at 2 (1981) (citing 8 John H. Wigmore, Evidence in*

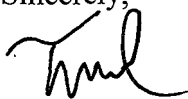
Trials at Common Law, § 2374, at 767 (J. McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. See Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988). The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. See Open Records Decision No. 549 at 5 (1990).

You claim the informer's privilege for the identities of complainants who reported alleged violations of section 42.092(b)(3) of the Penal Code, which is a Class A misdemeanor punishable by fine or imprisonment. Penal Code § 42.092(b)(3) (offense to unreasonably fail to provide necessary food, water, care, or shelter for an animal in a person's custody), (c) (offense under section 42.092(b)(3) is Class A misdemeanor). You state the alleged violations were reported to the authority, which is charged with enforcing the statute at issue. You do not indicate, nor does it appear, the subject of the complaint knows the identities of the informers. Based on your representations and our review, we conclude the authority may withhold the complainants' information we have 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 by informer's privilege so long as information furnished discloses potential violation of state law). We note, however, the remaining information does not consist of identifying information of an informer; therefore, the authority may not withhold this information under section 552.101 in conjunction with the informer's privilege. As you raise no further exceptions to disclosure, the authority 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/tdw

Ref: ID# 701832

Enc. Submitted documents

c: Requestor
(w/o enclosures)