



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 17, 2019

Ms. Deanne Rienstra  
Special Counsel  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-6630

OR2019-01550

Dear Ms. Rienstra:

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# 746614 (Ref. No. B-24507).

The Texas Lottery Commission (the "commission") received a request for information pertaining to complaints filed against the requestor during a period of time.<sup>1</sup> 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

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<sup>1</sup>We note the commission sought and received clarification of the information requested. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

Code § 552.101. This section encompasses 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. *See* Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). It 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 (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. *See* Open Records Decision No. 549 at 5 (1990).

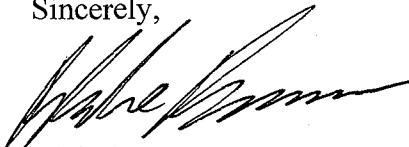
You state portions of the submitted information identify a complainant who reported alleged violations of law to the commission. You further state the commission "is a law enforcement agency with administrative and investigative authority over the conduct of bingo in the State of Texas." *See* Occ. Code §§ 2001.560(c), .051. You explain the alleged violations are punishable by administrative and criminal penalties under sections 2001.554(b) and 2001.601 of the Occupations Code. Based on your representations and our review, we conclude you have demonstrated the applicability of the common-law informer's privilege to most of the information at issue. Therefore, with the exception of the information we have marked for release, the commission may withhold the information you marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, we find the commission has failed to demonstrate the remaining information at issue identifies an informer for purposes of the common-law informer's privilege. Therefore, the commission may not withhold any of the remaining information under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the commission 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,

A handwritten signature in black ink, appearing to read "Blake Brennan", written in a cursive style.

Blake Brennan  
Attorney  
Open Records Division

BB/eb

Ref: ID# 746614

Enc. Submitted documents

c: Requestor  
(w/o enclosures)