



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 18, 2019

Ms. Catherine Lee
Open Records Coordinator
311 Customer Service Center
City of Dallas
1500 Marilla, 7AN
Dallas, Texas 75201

OR2019-07441

Dear Ms. Lee:

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# 762257 (PIR No. C001442-021819).

The City of Dallas (the "city") received a request for 311 calls and code violation investigations pertaining to a specified address during a specified time period. You state the city will release some information. You state the city will redact information pursuant to Open Records Decision No. 684 (2009).¹ 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 representative sample of information.²

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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)*. However, individuals who provide information in the course of an investigation but do not make a report of the violation are not informants for the purposes of claiming the informer’s privilege. 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 informant at issue reported an alleged violation of section 28-87 of the city’s code to the city’s 3-1-1 call center. You state the complaint was referred to the city’s Department of Code Compliance, which you explain has the authority to enforce the provision of the code at issue. You also state that the alleged violation is punishable by a fine. We have no indication the subject of the complaint knows the identity of the informer. Based upon your representations and our review, we conclude you have demonstrated the applicability of the common-law informer’s privilege to the information at issue. Therefore, 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 city failed to demonstrate the remaining information identifies an individual who made a report of a violation of any criminal or civil law for purposes of the informer’s privilege. Accordingly, the city may not withhold 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.

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,

A handwritten signature in black ink that reads "Britni Ramirez". The signature is written in a cursive style with a large, looped 'B' and 'R'.

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/sb

Ref: ID# 762257

Enc. Submitted documents

c: Requestor
(w/o enclosures)