



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 5, 2019

Mr. Jesse M. Blakley, Jr.
Assistant District Attorney
Brazoria County
111 East Locust Street, Suite 408A
Angleton, Texas 77515

OR2019-09237

Dear Mr. Blakley:

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# 757990 (Reference No. 19-0105).

The Brazoria County Sheriff's Office (the "sheriff's office") received a request for information regarding a specified incident.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 information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses the 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*

¹We note the sheriff's office sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

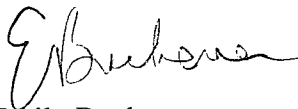
Open Records Decision No. 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials 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).

You state the information you marked reveals the identity of a complainant who reported possible violations of state law and city ordinances that carries criminal penalties to peace officers of the sheriff's office, which are authorized to enforce the laws and ordinances at issue. There is no indication the subject of the complaint knows the identity of the complainant. Based on your representations and our review, we conclude the information we marked identifies the complainant; thus, the sheriff's office may withhold the information we marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, you have failed to demonstrate the remainder of the information at issue consists of the identifying information of an individual who reported a criminal violation to the sheriff's office for purposes of the informer's privilege. Accordingly, the sheriff's office may not withhold the remaining information under section 552.101 on that basis. The sheriff's office 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,



Emily Buchanan
Attorney
Open Records Division

EB/jxd

Ref: ID# 757990

Enc. Submitted documents

c: Requestor
(w/o enclosures)