



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 29, 2020

Ms. Bhavani Madiseti-Vemireddy
Assistant County Attorney
Williamson County
405 Martin Luther King Jr Street, Suite #7
Georgetown, Texas 78626

OR2020-02769

Dear Ms. Madiseti-Vemireddy:

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# 808975 (ORR# 2019-631-PIA).

The Williamson County Constable's Office, Precinct 4 (the "constable's office"), received a request for information related to specified complaints about the requestor's clients' property. The constable's office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the constable's office claims 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. The constable's office raises 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. *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, witnesses 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

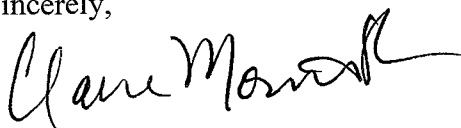
the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 at 5 (1990). We note the informer's privilege does not apply where the informant's identity is known to the individual who is the subject of the complaint. See ORD 208 at 1-2. Additionally, the privilege is not intended to protect the identities of public officials and employees who have a duty to report violations of the law. Because a public employee acts within the scope of his employment when filing a complaint, the informer's privilege does not protect the public employee's identity. Cf. *United States v. St. Regis Paper Co.*, 328 F. Supp. 660, 665 (W.D. Wis. 1971) (concluding public officer may not claim informer's reward for service it is his or her official duty to perform).

The constable's office states the submitted information identifies complainants who reported violations of law to the constable's office. The constable's office explains it is responsible for enforcing the relevant portions of the law and states violation of the relevant law carries civil or criminal penalties. Based upon the constable's office's representations and our review, we conclude the constable's office has demonstrated the applicability of the common-law informer's privilege to some of the submitted information, which we marked. Therefore, the constable'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, we find the remaining individuals whose identities the constable's office seeks to withhold are not individuals who reported a criminal violation to the constable's office for purposes of the informer's privilege. Accordingly, the constable's office may not withhold any of the remaining information under section 552.101 on that basis. The constable'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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

Ref: ID# 808975

Enc. Submitted documents

c: Requestor
(w/o enclosures)