



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 22, 2020

Mr. Reggie Hollins
Legal Technology Specialist
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2020-18342

Dear Mr. Hollins:

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# 837544 (ORR# AS-R003021).

The City of Plano (the "city") received a request for information pertaining to a named animal. The city indicates it is withholding some of the requested information pursuant to Open Records Letter No. 2017-00118 (2017).¹ The city claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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. *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 No. 208 at 1-2 (1978). The informer's

¹ Open Records Letter No. 2017-00118 authorizes the city to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

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). 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). 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. Upon review, we find the city has failed to establish the informer’s privilege is applicable to any of the information at issue. Therefore, the city may not withhold any of the submitted information under section 552.101 on that ground. Accordingly, the city must release the submitted 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/gw

Ref: ID# 837544

Enc. Submitted documents

c: Requestor
(w/o enclosures)