



## Office of the Attorney General

State of Texas

November 23, 1992

DAN MORALES  
ATTORNEY GENERAL

Ms. Mary Ann Heussner  
Galveston County  
Legal Department  
4127 Shearn Moody Plaza  
123 Rosenberg  
Galveston, Texas 77550-1454

OR92-672

Dear Ms. Heussner:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), article 6252-17a, V.T.C.S. Your request was assigned ID# 17674.

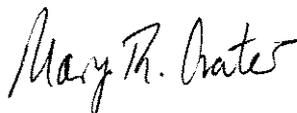
The Galveston County Health District (the "district") has received a request for a copy of a letter complaint regarding the requestor's dogs. You claim on behalf of the district that the complaint letter is excepted from required public disclosure by sections 3(a)(1) and 3(a)(8) of the act.

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." V.T.C.S. art. 6252-17a, § 3(a)(1). This section incorporates the "informer's privilege," which has been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). Its purpose is to further and protect law enforcement. *Roviaro v. United States*, 353 U.S. 53, 59 (1957). The informer's privilege allows a governmental body to withhold from required public disclosure the identity of persons furnishing information of violations of law to officers charged with enforcement of that law. *Id.* When information does not describe conduct that violates the law, the informer's privilege aspect of section 3(a)(1) does not apply. Open Records Decision Nos. 515 (1988); 191 (1978). The content of the informer's statement is protected only to the extent that it would reveal the informer's identity. Open Records Decision No. 515; *see also* Open Records Decision No. 549 (1990) at 5. Furthermore, the informer's privilege does not apply when the subject of the information already knows the informer's identity. Open Records Decision No. 208 (1978).

We have examined the complaint and conclude that it describes conduct which could violate the law to officials charged with enforcing the law. Galveston County animal control ordinances are enforced by the director of the district, or his representatives. Rules for Animal Control, Galveston County Health District (1988), rule no. .031. In his letter to the district, the complainant alleges activities expressly prohibited by the ordinances, *e.g.*, dogs running at large, and dogs creating a public nuisance. *Id.*, rule nos. .015 and .028; *see also* Open Records Decision Nos. 355 (1982) (identity of person reporting possible violation of a city ordinance excepted from disclosure by the informer's privilege); 279 (1981) (same); 156 (1977) (act prohibits release of the name of person who alleges potential violation of a state statute). Therefore, we conclude that the informer's privilege applies, and that you must withhold the letter from public disclosure.<sup>1</sup> Because section 3(a)(1) protects the requested information, we need not address the applicability of section 3(a)(8).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-672.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/HJ/lmm

Ref.: ID# 17674

Enclosure: Submitted documents

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<sup>1</sup>It is not possible to release parts of the complaint without identifying the informant.

cc: Dr. Ralph Morris, Director  
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P. O. Box 939  
La Marque, Texas 77568  
(w/o enclosures)

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