



Office of the Attorney General  
State of Texas

November 24, 1997

DAN MORALES  
ATTORNEY GENERAL

Ms. Linda Wiegman  
Supervising Attorney  
Office of General Counsel  
Texas Department of Health  
1100 West 49<sup>th</sup> Street  
Austin, Texas 78756-3199

OR97-2564

Dear Ms. Wiegman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110348.

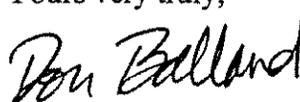
The Texas Department of Health received a request for the names of the persons who have filed a complaint against Texas Best Beef Jerky. You claim that the requested information is excepted from required public disclosure by section 552.101 of the Government Code under the informer's privilege. You have marked the information on the responsive document you seek to withhold. We have considered the exception you claim and have reviewed the document at issue.

Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. 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 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5. The purpose of the informer's privilege is to encourage the flow of information to the government by protecting the identity of the informant. Open Records Decision Nos. 582 (1990), 579 (1990), 549 (1990). The informer's privilege is waivable by a governmental body. Open Records Decision No. 549 (1990). In this instance, the requested information relates to the identities of persons who

have reported that a particular company is "producing and selling un-inspected Beef Jerky, Turkey Jerky, and other Beef and Pork products." Based on the circumstances and documents here, it appears that the complaints at issue are violations of law over which you have a duty of inspection.<sup>1</sup> You may withhold the highlighted information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 110348

Enclosures: Submitted documents

cc: Mr. Troy Collier  
7043 Seymour Highway  
Wichita Falls, Texas 76308  
(w/o enclosures)

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<sup>1</sup>Generally, when a governmental raises the informer's privilege, a governmental body should point out the specific criminal or civil statute at issue, and explain that the reported violation was made either to the police or a similar law-enforcement agency, or to an "administrative official having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)).