



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 18, 1998

Ms. Judith A. Hunter
Paralegal
City Attorney's Office
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR98-0480

Dear Ms. Hunter:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113485.

The City of Georgetown (the "city") received an open records request for the complaint and "Application for Complaint" pertaining to a violation of the city's leash law. You seek to withhold the requested documents pursuant to the informer's privilege, as incorporated into section 552.101 of the Government Code.

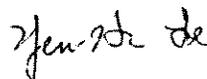
The "informer's privilege" aspect of section 552.101 protects the identity of persons who report violations of the law. Although the privilege ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 285 (1981), 279 (1981); *see also* Open Records Decision No. 208 (1978). This may include enforcement of quasi-criminal civil laws. Open Records Decision Nos. 515 (1988), 391 (1983). Among the documents you submitted to this office is a receipt from the city's municipal court indicating that the offender paid fines in connection with the offense.

The privilege does not, however, protect the contents of communications if they do not reveal the identity of the informant. *Roviaro v. United States*, 353 U.S. 53, 60 (1957). Because part of the purpose of the privilege is to prevent retaliation against informants, the privilege does not apply when the informant's identity is known to the individual who is the subject of the complaint. *See* Open Records Decision No. 208 (1978).

We note, however, that in this instance the requestor seeks the complaint that was filed with the municipal court. The Open Records Act neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed. Open Records Decision No. 25 (1974). Consequently, this office is without authority to instruct the court as to whether the criminal complaint must be released. On the other hand, although municipal courts are not subject to the Open Records Act, Open Records Decision No. 274 (1981), records filed with the municipal court are nevertheless public information under other laws giving municipal court clerks the same duties as county clerks. *Id.* Because the complainant's identity is contained in public court records, the informer's privilege is inapplicable here. *Cf. Star-Telegram v. Walker*, 834 S.W.2d 54 (Tex. 1992) (information contained in public court records not protected by common-law privacy). We therefore conclude that the city may not withhold the "Application for Complaint" from the requestor.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/rho

Ref.: ID# 113485

Enclosures: Submitted documents

cc: Mr. Richard L. Anderson
3010 Gabriel View
Georgetown, Texas 78628
(w/o enclosures)