



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 10, 1998

Mr. Paul Sarahan
Acting Director, Litigation Support Division
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR98-1646

Dear Mr. Riley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 116444.

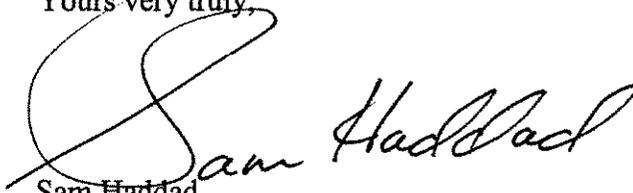
The Texas Natural Resource Conservation Commission received a request for "copies of all correspondence in your file(s) dated from March 1, 1996 to the present, that pertains to any employees, past or present, of the City of Bruceville-Eddy Water Supply." In response to the request, you submit to this office for review a copy of the responsive information, concerning the alleged falsification of a specified individual's license application for water supply system operator. You claim that the submitted letter, that identifies the complaining individuals, is excepted from disclosure under section 552.101 in conjunction with the informer's privilege. 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.*

You indicate that the submitted complaint letter discloses a possible violation of the commission's rules as set out in the Texas Administrative Code and Chapter 341 of the Health and Safety Code. After reviewing the materials and the commission's administrative rules, we do not believe that the informer's privilege is applicable in this instance. See 30 T.A.C. § 290.31(a). Therefore, you must release the requested 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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref: ID# 116444

Enclosures: Submitted documents

cc: Mayor Gene McBride
City of Bruceville-Eddy
P. O. Box 548
Eddy, Texas 76524
(w/o enclosures)