

January 28, 1999



Ms. Jeanine Cadena
Vial, Hamilton, Koch & Knox, L.L.P.
1717 Main Street, Suite 4400
Dallas, Texas 75201-7388

OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

OR99-0256

— * —

Dear Ms. Cadena:

JOHN CORNYN
Attorney General

— * —

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# 121530.

P.O. Box 12548
Austin, Texas
78711-2548

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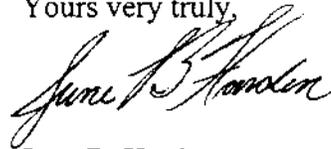
The Town of Flower Mound (the "town") received a request for any correspondence between the town attorney and the District Attorney's office concerning allegations of attempted bribery. You have submitted one document which you claim is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted document.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also incorporates the informer's privilege. This 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 that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). 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 at 2 (1981) (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 at 2 (1990), 515 at 4-5 (1988). You have not adequately demonstrated that the informer's privilege is applicable in this

instance. *See, e.g.*, Open Records Decision Nos. 542 (1990) (concluding that Open Records Act places on a governmental body the burden of establishing why and how an exception applies to requested information), 532 (1989), 515 (1988), 252 (1980). Consequently, the town may not withhold the submitted document under the informer's privilege.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 121530

Enclosures: Submitted documents

cc: Mr. Michael Ryan - Writer
The Lewisville Leader
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(w/o enclosures)