



March 10, 1999

Mr. David Daugherty
Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR99-0686

Dear Mr. Daugherty:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122755.

Harris County (the "county") received a request for information concerning the county's Rabies/Animal Control Office's handling of a complaint about a particular dog. You claim that the complainant's identity is protected by the informer's privilege under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The 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 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)

¹You have submitted a redacted copy of the requested information. We note that, in the future, you must submit a copy of the requested information without any information redacted. Gov't Code § 552.301.

(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). The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 at 5 (1990).

You represent to us that the complainant reported a violation of the county's Rabies/Animal Control rules which is a class C misdemeanor. You further state that the "Harris County Rabies/Animal Control Office is responsible for enforcing the Rabies Control Act of 1981, the rules of the Texas Board of Health that comprise the minimum standards of rabies control, the Harris County rules to control rabies, and the rules adopted by the Texas Board of Health under the quarantine provisions of the Rabies Control Act of 1981." We conclude that you may withhold information that reveals the complainant's identity under section 552.101 in conjunction with the informer's privilege. *See* Open Records Decision No. 156 (1977) (name of person who makes complaint about another individual to city's animal control division is excepted from disclosure by informer's privilege so long as information furnished discloses potential violation of state law).

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.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 122755

Enclosures: Submitted documents

cc: Ms. Helen Ryza
P.O. Box 182
Crosby, Texas 77532
(w/o enclosures)