



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 30, 2009

Ms. Amy L. Sims  
Assistant City Attorney  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR2009-15433

Dear Ms. Sims:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 359944.

The City of Lubbock (the "city") received a request for the file regarding an incident involving the requestor's dog. You state you released some information from the responsive animal services report. You claim the information you highlighted is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information protected by the common-law informer's privilege, which has long been recognized by Texas courts. *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) (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). However, individuals who provide information in the course of an investigation but do not make the initial report of the violation are not informants for the purposes of claiming the informer's privilege. 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).

Upon review, we marked the identifying information of the individual who reported a possible violation of the city's Animal Ordinance to the city's Animal Control Department. You state, and provide documentation showing, that a violation of this ordinance would result in a minimum penalty of a Class C misdemeanor and a potential fine to the owner of the animal. Although you also highlighted the victim's identifying information, the report reflects this individual did not report the violation to the Animal Control Department in this case. Accordingly, the city may only withhold the information we marked in the submitted report under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

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Ref: ID# 359944

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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