



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 14, 2011

Ms. Laura Russell  
Attorney  
Texas Parks & Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744

OR2011-18365

Dear Ms. Russell:

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# 440499.

The Texas Parks and Wildlife Department (the "department") received a request for information related to two specified complaints. You claim portions of the submitted information are 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 from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, including section 414.009 of the Government Code, which provides in part:

(a) A person who is a member or employee of the [Texas Crime Stoppers Council] or who accepts a report of criminal activity on behalf of a crime stoppers organization commits an offense if the person intentionally or knowingly divulges to a person not employed by a law enforcement agency the content of a report of a criminal act or the identity of the person who made the report without the consent of the person who made the report.

*Id.* § 414.009. You state some of the submitted information was submitted to Operation Game Thief, which is a crime stoppers organization. *See id.* § 414.001(2)(B) (defining

“crime stoppers organization” as public organization operated on a local or statewide level that pays rewards to persons who report information about criminal activity to the organization and that forwards the information to the appropriate law enforcement agency). Based on your representation, we have marked the Operation Game Thief Case Report the department must withhold under section 552.101 of the Government Code in conjunction with section 414.009 of the Government Code. As you do not indicate any of the remaining information at issue falls within the scope of section 414.009, we conclude the department may not withhold any other information on that basis under section 552.101.

Section 552.101 of the Government Code also encompasses the common-law informer’s privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer’s privilege protects 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. *See Open Records Decision Nos. 515 at 3 (1998), 208 at 1-2 (1978)*. The 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.” *See Open Records Decision No. 279 at 2 (1981) (citing 8 John H. Wigmore, Evidence in Trials at Common Law, § 2374, at 767 (J. 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*. The privilege excepts the informer’s statement only to the extent necessary to protect the informer’s identity. *See Open Records Decision No. 549 at 5 (1990)*.

You have marked information the department seeks to withhold on the basis of the informer’s privilege. You explain that the marked information identifies an individual who reported an alleged violation of Texas fish and game laws made to a Texas Game Warden who is charged with enforcing fish and game laws. You inform us that a violation of the ordinance involved is a misdemeanor criminal offense that is punishable by a fine. You state, and provide documentation confirming, the subject of the complaint does not know the identity of the complainant. Based on your representations, we conclude that the department may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, the remaining information does not contain identifying information of the informer. Thus, we conclude the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with the informer’s privilege.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 414.009 of the Government Code and 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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 440499

Enc. Submitted documents

c: Requestor  
(w/o enclosures)