



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 29, 2014

Mr. Mark D. Kennedy
General Counsel
Hays County District Attorney's Office
111 East San Antonio Street, Suite 202
San Marcos, Texas 78666

OR2014-15309

Dear Mr. Kennedy:

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# 539438.

The Hays County District Attorney's Office (the "district attorney's office") received a request for information regarding complaints against a specified address. 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 "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 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); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). The informer's 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 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). 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.

You state the information you have marked reveals the identity of a complainant who reported a possible violation of law to the Hays County Development and Community Services Department (the “department”). You also state the alleged violation is subject to a class C misdemeanor charge. We understand the department has a duty of inspection concerning the allegation at issue. There is no indication the subject of the complaint knows the identity of the complainant. Based on your representations and our review, we conclude the information you have marked identifies the complainant; thus, the district attorney’s office may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. The district attorney’s office must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 539438

Enc. Submitted documents

c: Requestor
(w/o enclosures)