



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 15, 2015

Mr. Tim Wyatt
Public Information Officer
County of Collin
2300 Bloomdale Road, Suite 4192
McKinney, Texas 75071

OR2015-07251

Dear Mr. Wyatt:

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# 561780.

Collin County (the "county") received a request for information pertaining to a named facility and a named individual. The county states it will release some of the requested information, with e-mails redacted pursuant to Open Records Decision No. 684 (2009).¹ The county claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, you inform us some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-07578 (2014). In Open Records Letter No. 2014-07578, we determined, with the exception of certain citations and basic information, the county may withhold the requested information under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, the county must continue to rely on Open Records Letter No. 2014-07578 as

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of seeking a decision from this office.

a previous determination and withhold or release the identical information in accordance with that ruling.² We will address the county's arguments against the release of the submitted information not encompassed by Open Records Letter No. 2014-07578.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses the informer's privilege, which has long been recognized by Texas courts. *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. See Open Records Decision No. 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 1-2 (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 (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).

The county states the information it seeks to withhold consists of the identifying information of a complainant who reported possible violations of section 822.110 of the Health and Safety Code, a violation of which is a misdemeanor, and these complaints were made to county animal control officers, who we understand have the authority to enforce the section at issue. See Health & Safety Code §§ 822.110, .113(c). Upon review, we conclude the county may withhold the information it has marked, as well as the information we have marked, under section 552.101 of the Government Code in conjunction with the informer's privilege. The county 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.

²See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/cbz

Ref: ID# 561780

Enc. Submitted documents

c: Requestor
(w/o enclosures)