



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

May 11, 2015

Mr. Jeffrey W. Giles  
Assistant City Attorney  
Legal Department  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2015-09056

Dear Mr. Giles:

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# 563036 (GC Nos. 22126, 22163, and 22164).

The Houston Emergency Center (the "center") received three requests for all 9-1-1 audio recordings regarding officers responding to persons carrying weapons for a specified time period, including calls pertaining to specified case numbers. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from one of the requestors. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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." *Id.* § 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). For the informer's privilege to apply, the report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at (1990), 515 at 3-4. The privilege affords protection to individuals who report violations of statutes to criminal 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)).

You seek to withhold the submitted information under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. You state the complainants reported a possible violation of the law. We note in some circumstances, where an oral statement is captured on tape and the voice of the informant is recognizable, it may be necessary to withhold the entire audio statement to protect the informant’s identity. ORD 434 at 2. You do not indicate, nor does it appear, the subject of the complaints knows the identities of the informers. Based on your representations and our review, we conclude the center may withhold the submitted audio recordings in their entirety under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege.

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](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# 563036

Enc. Submitted documents

c: Requestors  
(w/o enclosures)