



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 6, 2015

Ms. Heather Silver  
Assistant City Attorney  
City of Dallas  
1500 Marilla, Room 7DN  
Dallas, Texas 75201

OR2015-13515

Dear Ms. Silver:

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# 570105.

The City of Dallas (the "city") received a request for complaints filed against specified entities regarding improper disposal of chemicals. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>Although you also raise Texas Rule of Evidence 508, we note the proper exception to raise when asserting the informer's privilege for information not subject to section 552.022 of the Government Code is section 552.101 of the Government Code in conjunction with the common-law informer's privilege. *See* Open Records Decision Nos. 677 (2002), 676 at 6 (2002).

<sup>2</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code exempts 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. *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. *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 city states the information it has marked reveals the identity of a complainant who reported a possible violation of law that carries criminal penalties to the Texas Commission on Environmental Quality (“TCEQ”). You inform us TCEQ is the entity with the authority to enforce environmental regulations. You further inform us TCEQ forwarded the complaint to the city “so that [the city] could investigate the complaint and report their findings to TCEQ.” There is no indication the subject of the complaint knows the identity of the complainant. Based on the city’s representations and our review, we conclude the information we have marked identifies the complainant; thus, the city 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, we find the remaining information at issue does not identify an informer for the purposes of the informer’s privilege. Accordingly, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. As no other exceptions to disclosure have been raised, the city 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](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,

A handwritten signature in black ink, appearing to read "Cristian Rosas-Grillet". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Cristian Rosas-Grillet  
Assistant Attorney General  
Open Records Division

CRG/som

Ref: ID# 570105

Enc. Submitted documents

c: Requestor  
(w/o enclosures)