



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2012

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
600 North Bell Boulevard
Cedar Park, Texas 78613

OR2012-01126

Dear Ms. Quinn:

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# 443782 (Reference No. 12-08).

The Cedar Park Police Department (the "department") received a request for information regarding a specified arrest, including a record of a related telephone call. You state the information submitted as Exhibit B either has been or will be released. You claim Exhibit C is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

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. You raise section 552.101 in conjunction with 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 the subject of the information does not already know the informer's identity. *See Open Records Decision Nos. 515 at 3 (1988), 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

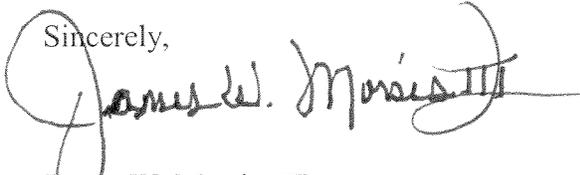
a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5. The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You claim the informer's privilege for Exhibit C. You indicate the information at issue identifies a person who reported a possible offense of driving while intoxicated. Based on your representation and our review of the information at issue, we conclude the department may withhold Exhibit C in its entirety under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.¹

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, 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 443782

Enc: Submitted information

c: Requestor
(w/o enclosures)

¹We note the department would be required to withhold some of the information in Exhibit B from the general public under section 552.130 of the Government Code. Because section 552.130 protects personal privacy, this requestor has a right of access to the information in question as an attorney for the person whose privacy interests are implicated. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Should the department receive another request for these same records from a different requestor, the department should resubmit these records and request another decision. *See* Gov't Code §§ 552.301(a), .302.