



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 22, 2012

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

OR2012-02770

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# 447297 (Cedar Park Ref. No. 12-175).

The City of Cedar Park (the "city") received a request for the police report and corresponding 9-1-1 audio recordings for an incident at a specified address. You state you will redact a driver's license number pursuant to section 552.130 of the Government Code.¹ You claim that 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.

You seek to withhold the identity of the caller in the submitted report and corresponding audio recording under section 552.101 of the Government Code in conjunction with the informer's privilege. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information protected by the common-law

¹We note the Texas legislature amended section 552.130 of the Government Code effective September 1, 2011, to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

§ 552.101. This exception 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 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) (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.

You explain the information you have marked in the submitted report and the caller's identifying information on the submitted audio recording identify an individual who made a report of a possible violation of the law to the Cedar Park Police Department. We understand the alleged violation carries civil or criminal penalties. Based on your representation and our review, we conclude the city may withhold the information you have marked in the submitted report and the identifying information of the caller we have noted on the submitted audio recording under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

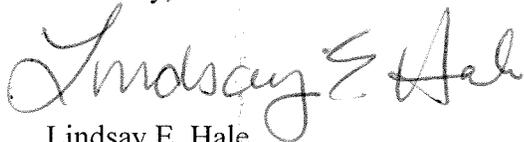
You state the city lacks the technical capability to redact the information at issue from the audio recording. However, because the city had the capability to copy the audio recording at issue in order to submit the requested information for our review, we believe the city has the capacity to produce a copy of only the non-confidential portions of the submitted audio recording. Therefore, we find the city may withhold only the information we have noted on the audio recording under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The city must release the remaining information in the submitted audio recording, as well as the remaining information in the submitted report.²

²We note the information being released contains the requestor's driver's license number to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code §§ 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests), .130. If the city receives another request for information from an individual other than this requestor, as previously noted, the city is authorized to withhold the requestor's driver's license number under section 552.130 without the necessity of requesting an attorney general opinion. *See id.* § 552.130(c).

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,

A handwritten signature in cursive script that reads "Lindsay E. Hale".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 447297

Enc. Submitted documents

c: Requestor
(w/o enclosures)