



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 12, 1998

Mr. Kelley E. Stone  
Captain, Field Operations Division  
Collin County Sheriff's Office  
4300 Community Boulevard  
McKinney, Texas 75070

OR98-0445

Dear Mr. Stone:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112515.

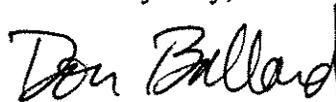
The Collin County Sheriff's Office received a request for "any and all information your office may have on a woman by the name of Clementine Giovannetti, AKA Cook Giovannetti, and an organization operating in Collin County known as God's Country." You state that the records section of the Sheriff's office maintains two offense reports filed by the named individual. You have marked these reports as exhibits A and B. You raise no arguments to withhold these documents. You also indicate that the Criminal Investigation Section of the Sheriff's office maintains other responsive information. You claim that this information may be withheld under section 552.108 of the Government Code. You have provided this office with a copy of the this information and have marked it exhibit C.

Because chapter 552 of the Government Code prohibits the release of confidential information and because its improper release constitutes a misdemeanor, the attorney general will raise section 552.101 in conjunction with a right of privacy on behalf of a governmental body, although the attorney general ordinarily will not raise other exceptions that a governmental body has failed to claim. See Open Records Decision Nos. 455 (1987) at 3, 325 (1982) at 1. Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by the common-law right of privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld from the public under common-law privacy when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. We believe that portions of exhibits A and B must be withheld because of a right of privacy. We have marked these documents accordingly. The remaining information within exhibits A and B must be released to the requestor. Gov't Code § 552.301.

As for exhibit C, we believe that you must withhold this requested material. The requestor here is asking for any unspecified records in which the named individual is identified. The requestor is, in essence, asking that the city compile this individual's criminal history. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See Open Records Decision Nos. 616 (1993), 565 (1990)*. The Sheriff's Office, therefore, must withhold all compilations of the referenced individuals' criminal histories pursuant to section 552.101. Because of the form of the request, you must withhold all of exhibit C..

Because we make a determination under section 552.101, we need not address your section 552.108 arguments at this time. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 112515

Enclosures: Submitted documents

cc: Ms. Daun Eierdam  
Reporter  
McKinney Courier-Gazette  
P.O. Box 400  
McKinney, Texas 75070  
(w/o enclosures)