



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 4, 1998

Mr. Paul F. Wieneskie
Cribbs & Mcfarland
P.O. Box 13060
Arlington, Texas 76094-0060

OR98-2597

Dear Mr. Wieneskie:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 119399.

The Euless Police Department, (the "department") which you represent, received a request for all information relating to the arrest of a named individual.¹ You claim that the responsive information is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

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. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We note at the outset that to the extent the requestor is asking for any unspecified records in which the named individual is identified as a "suspect," the requestor, in essence, is asking that the department compile those individuals' 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

¹The requestor indicates in his letter that he is seeking the information with a special right of access. Gov't Code § 552.023. The department, however, informs this office that the requestor does not represent nor is he seeking the information at issue on behalf of the subject of this request for information. Consequently, we cannot conclude that any special right of access exists in this case.

information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See* Open Records Decision Nos. 616 (1993), 565 (1990). The department, therefore, must withhold all compilations of the referenced individuals' criminal histories pursuant to section 552.101. Due to the manner of the request in this instance, the submitted information must be withheld.

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\nc

Ref: ID# 119399

Enclosures: Submitted documents

cc: Mr. Geoffrey M. Tait
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P.O. Box 8040
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(w/o enclosures)