



March 29, 1999

Ms. Candelaria Nieto  
Data Processing Supervisor  
P.O. Box 1079  
Edinburg, Texas 78549-1079

OR99-0875

Dear Ms. Nieto:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123452.

The Edinburg Police Department (the "department") received a request for "any and all files, records and any other documents" pertaining to a specified person. You contend that some of the requested information is excepted from required public disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

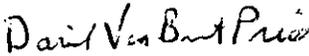
The department received this request for information on December 17, 1998. The department's request for opinion was received by our office on January 22, 1999. Section 552.301(a) of the Government Code requires a governmental entity seeking to withhold public information to submit a request for a decision to the attorney general "not later than the 10th business day after the date of receiving the written request." Section 552.302 states "[1] If a governmental body does not request an attorney general decision as provided by section 552.301(a), the information requested in writing is presumed to be public information." This legal presumption that the requested information is open to the public may be overcome only by a demonstration of a compelling interest. *Hancock v. State Bd. Of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." We recognize that section 552.101 of the Government Code excepts from disclosure criminal history record information ("CHRI"). 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). Therefore, to the extent it exists, the department must withhold the requested CHRI from the requestor.<sup>1</sup>

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.

Sincerely,

  
David Van Brunt Price  
Assistant Attorney General  
Open Records Division

DVP\nc

Ref: ID# 123452

Enclosures: Submitted documents

cc: Ms. Roxanne M. Gonzalez  
T.S. Francis & Associates  
P.O. Box 443  
Wylie, Texas 75098  
(w/o enclosures)

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<sup>1</sup> If the requestor represents the subject, the requestor may have a special right of access to the CHRI. *See* Gov't Code section 552.023.