



October 2, 2002

Ms. Patricia E. Carls  
Georgetown City Attorney  
Brown & Carls  
106 East Sixth Street, Suite 550  
Austin, Texas 78701

OR2002-5567

Dear Ms. Carls:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 170118.

The Georgetown Police Department (the “department”), which you represent, received a request for all information regarding Matthew Bates. The department claims that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This exception encompasses the common-law right to privacy. Where an individual’s criminal history information has been compiled by a governmental entity, the compiled information takes on a character that implicates the individual’s right to privacy in a manner that the same information in an uncompiled state does not. *See United States Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). In this instance, the requestor asks for all information concerning a named individual. Thus, this request implicates the named individual’s right to privacy. Therefore, any information maintained by the department that depicts the named individual as a suspect is private under *Reporters Committee* and must be withheld from disclosure under section 552.101. However, information that refers to the named individual solely as a victim, witness, or involved person is not private under *Reporters Committee* and may not be withheld under section 552.101. Therefore, the department may not withhold incident report numbers 1011860, 1017674, 1021208, 1021820, and 2000931 under section 552.101 of the Government Code.

We note, however, that incident report numbers 1011860, 1017674, 1021208, 1021820, and 2000931 contain driver's license, license plate, and vehicle identification numbers. Section 552.130 of the Government Code excepts from public disclosure information that relates to

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a)(1)-(2). We have marked the driver's license, license plate, and vehicle identification numbers that appear in incident report numbers 1011860, 1017674, 1021208, 1021820, and 2000931. To the extent that the marked information consists of Texas driver's license, license plate, and vehicle identification numbers, the department must withhold this information under section 552.130. The rest of the information contained in incident report numbers 1011860, 1017674, 1021208, 1021820, and 2000931 must be released to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free,

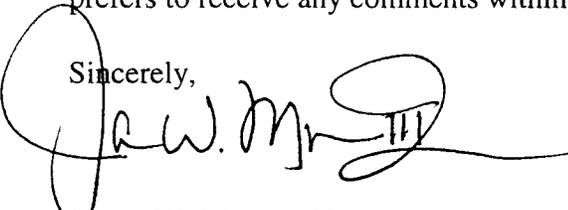
at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



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

JWM/KAE/sdk

Ref: ID# 170118

Enc: Marked documents

c: Ms. Beverly McKinney  
204 South Ocatillo Lane  
Georgetown, Texas 78628  
(w/o enclosures)