



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

February 10, 2003

Mr. Leslie R. Sweet
Legal Advisor
Dallas County Sheriff Department
133 North Industrial Boulevard, LB 31
Dallas, Texas 75207-4313

OR2003-0899

Dear Mr. Sweet:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 176310.

The Dallas County Sheriff Department (the "department") received a request for "a copy of a list of the names, addresses, telephone numbers, bail bond amounts and case numbers of all persons that have been released from the Dallas County Jail where International Fidelity Ins. Co., Allegheny Casualty Co. were the surety or still are the surety" during a specified range of dates. As representative of the requested information, you have submitted "an example of the information that is available within the records of the Sheriff Department," which you have no objection to releasing.¹ Additionally, you state that you "can request a special computer run from the Dallas County Data Services Department that will include the address and telephone numbers of the arrestee[s]."² You claim that portions of the requested information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the

¹We assume that the "example" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²*See* Gov't Code § 552.002(a)(2) (defining "public information" as information "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business . . . for a governmental body and the governmental body owns the information or has a right of access to it.")

submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing for submission of public comments.).³

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses common-law privacy. 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). In this instance, we find that the information you seek to withhold is not a compilation of criminal history record information as contemplated by *Reporters Committee*. Therefore, we conclude that you may not withhold this information under section 552.101 and *Reporters Committee*.

You next assert that the information at issue is excepted from disclosure under section 552.108. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. Without providing any explanation, you state that the department believes that the information at issue should be withheld from disclosure under section 552.108(a)(2). However, you do not adequately demonstrate that the information relates to cases that have reached a final result other than conviction or deferred adjudication. Furthermore, an arrestee's address is basic information about the crime and, therefore, not subject to section 552.108. Gov't Code § 552.108(c); *see Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (summarizing types of information considered to be basic information.) Consequently, the department may not withhold the requested information under section 552.108(a)(2). Because you have raised no other exceptions to the disclosure of this information, we find that the department must release it to the requestor.

³For the requestor's benefit, we address the timeliness of the department's submission to this office. *See* Gov't Code §§ 552.301(b) (establishing ten business day deadline for submission of request for open records ruling); 552.301(e) (establishing fifteen business day deadline for other required submissions in ruling process). The requestor asserts that the sheriff received his information request earlier than the date the sheriff claims to have received it. We cannot resolve disputes of fact in the open records process, and therefore, we must rely on the representations of the governmental body requesting our opinion. Open Records Decision Nos. 554 (1990), 552 (1990). However, we note that had the sheriff received the request one or even two days earlier than the date the sheriff represents he received it, November 15, 2002, the sheriff would still be timely in his submission to this office. *See* Gov't Code § 552.301(b). This is because the sheriff sent the information by first class United States mail properly addressed with postage prepaid and it bears a post office cancellation mark of November 27, 2002, a date within the statutory deadline. *See* Gov't Code § 552.308(a) (submission is timely if cancellation mark within specified period).

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,



V.G. Schimmel
Assistant Attorney General
Open Records Division

VGS/sdk

Ref: ID# 176310

Enc: Submitted documents

c: Mr. Harold Rhett Stein
4141 Grassmere Lane
Dallas, Texas 75205
(w/o enclosures)