



OFFICE of the ATTORNEY GENERAL  
GREG ABBOTT

March 24, 2003

Ms. Tenley A. Aldredge  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2003-1982

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178265.

The Travis County Sheriff's Office (the "sheriff") received a written request for two specified incident reports, as well as information contained in other incident reports. You contend that the requested information is excepted from required disclosure pursuant to sections 552.101, 552.108, and 552.130 of the Government Code.

We note at the outset that item three of the records request consists of a series of questions. It is well established that the Public Information Act (the "Act") does not require a governmental body to prepare answers to questions. *See* Open Records Decision No. 555 at 1-2 (1990). Nor does the Act require the preparation of information in the form requested by a member of the public. Open Records Decision No. 145 (1976); *see also* Open Records Decision No. 347 (1982). The Act applies only to information already transcribed into tangible form. Attorney General Opinion JM-640 (1987). On the other hand, a request for information made pursuant to the Act may not be disregarded simply because a citizen does not specify the exact documents desired. It is incumbent on a governmental body to make a good faith effort to relate documents it holds to information that is being requested under the Act. *See* Open Records Decision No. 87 (1975). You represent that the submitted records are responsive to the records request, and we will address the extent to which they are subject to required public disclosure. However, as you do not contend that the information sought in item three is excepted from public disclosure, the sheriff must release this information to the extent it exists.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found.*

*v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* that is of no legitimate concern to the public. *Id.* at 683-85. 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, however, we find that the requestor seeks information pertaining to specific cases rather than a compilation of criminal history record information as contemplated by *Reporters Committee*. Therefore, we conclude that the sheriff may not withhold the submitted incident reports on privacy grounds.

You also contend that the incident reports you submitted to this office are excepted from required public disclosure pursuant to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from required public disclosure "[i]nformation held by a law enforcement agency . . . that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." You represent that each of the submitted incident reports pertains to a criminal investigation that has concluded in a result other than a criminal conviction or deferred adjudication. We therefore conclude that the sheriff may withhold most of the submitted incident reports pursuant to section 552.108(a)(2) of the Government Code.<sup>1</sup>

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). The sheriff therefore must release these types of information, including a detailed description of each alleged offense, regardless of whether the basic information is actually contained on the front page of an offense report, in accordance with *Houston Chronicle Publishing Company 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); *see also* Open Records Decision No. 127 (1976).

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

---

<sup>1</sup>Because we resolve your request under section 552.108(a)(2), we need not address the applicability of the other exceptions you raised.

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).

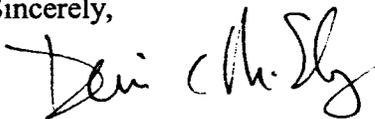
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Dep't of Pub. 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,



Denis C. McElroy  
Assistant Attorney General  
Open Records Division

DCM/RWP/seg

Ref: ID# 178265

Enc: Submitted documents

c: Ms. Krista J. Monroe  
P.O. Box 1663  
Cedar Park, Texas 78630-1663  
(w/o enclosures)