



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2005

Ms. Julie Joe
Assistant County Attorney
Travis County
P. O. Box 1748
Austin, Texas 78767

OR2005-09944

Dear Ms. Joe:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 235648.

The Travis County Sheriff's Office (the "sheriff") received a request for the criminal record of a named individual. You claim that the requested information is excepted from disclosure under sections 552.101, 552.130 and 552.147 of the Government Code. We have considered the exceptions 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." Gov't Code § 552.101. This exception encompasses the common law right to privacy, which protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and the public has no legitimate interest in it. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). 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). However, information relating to routine traffic violations is not excepted from release under section 552.101 in conjunction with common law privacy and *Reporters Committee*. Cf. Gov't Code § 411.082(2)(B).

In this instance, the requestor asks the sheriff for the criminal record of a named individual. This request implicates this individual's right to privacy. As such, to the extent the sheriff maintains records in which the named individual is portrayed as a suspect, defendant, or arrestee, it must withhold such information in accordance with section 552.101 and the

common law right to privacy. However, we find that you have failed to adequately explain how certain identification numbers constitute a specific individual's criminal history record information. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Therefore, these identification numbers, which we have marked, may not be withheld under section 552.101 in conjunction with the holding in *Reporters Committee*.

You also claim that the named individuals driver's license number is excepted under section 552.130 of the Government Code, which provides that a motor vehicle operator's, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Upon review, we agree that the sheriff must withhold the Texas driver's license number you have marked under section 552.130.

You also seek to withhold the named individuals' social security number. Section 552.147 of the Government Code¹ provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the sheriff must withhold the social security number contained in the information at issue under section 552.147.²

In summary, the sheriff must withhold any law enforcement information depicting the named individual as a suspect, arrestee, or criminal defendant under section 552.101 in conjunction with common law privacy. The sheriff must withhold the driver's license number you have marked under section 552.130. The sheriff must withhold the social security number under section 552.147. The remaining information must be released.

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).

¹Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, § 1, sec. 552.147(a) (to be codified at Tex. Gov't Code § 552.147).

²We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



José Vela III
Assistant Attorney General
Open Records Division

JV/krl

Ref: ID# 235648

Enc. Submitted documents

c: Ms. Jenette Hosay
Fax: 512-472-3855
(w/o enclosures)