



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 18, 1997

Mr. Kevin B. Laughlin  
City Attorney  
City of Kerrville  
800 Junction Highway  
Kerrville, Texas 78028-5069

OR97-1635

Dear Mr. Laughlin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107198.

The Kerrville Police Department (the "department") received a request for all records the department has on a named individual. You claim that any information responsive to the request would be confidential by law. We agree.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by the common-law right of privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The requestor, in essence, is asking that the department compile the referenced individual's criminal history. 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)*. The department, therefore, must withhold all compilations of the referenced individual's criminal history pursuant to section 552.101 in conjunction with the common-law right to privacy. Additionally, any information obtained

from the National Crime Information Center or the Texas Crime Information Center is generally confidential by law. 28 C.F.R. § 20; Gov't Code § 411.083.<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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/rho

Ref: ID# 107198

Enclosures: Submitted documents

cc: Ms. Julie Myers  
News Editor  
The Mountain Sun  
P.O. Box 1249  
Kerrville, Texas 78029  
(w/o enclosures)

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<sup>1</sup>We note, however, that the federal regulations referenced in *Reporter's Committee* which govern the release of criminal history information provide that "[n]othing in these regulations prevents a criminal justice agency from disclosing to the public criminal history record information related to the offense for which an individual is currently within the criminal justice system." 28 C.F.R. § 20.20(c); *see also* Gov't Code § 411.081(b) (similar provision under Texas law governing release of criminal history information that law enforcement agencies obtain from the Texas Department of Public Safety or other state law enforcement agencies). Thus, we do not believe that criminal history information "related to an offense for which an individual is currently within the criminal justice system" is protected from disclosure.