



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 5, 1997

Ms. Kristi A. Taylor
Assistant City Attorney
Neiman & Barnes, L.L.P.
P.O. Box 777
Lewisville, Texas 75067

OR97-2440

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 110406.

The City of Lewisville Police Department (the "police department"), which you represent, received a request for all information pertaining to the arrests, investigations, and prosecutions of a named individual, including information about cases in which this individual was a witness. Apparently the police department has no information about cases in which the individual was a witness. You claim that the information relating to the individual's arrests and prosecutions is excepted from disclosure under section 552.108 of the Government Code. We conclude, however, this information is excepted from disclosure under section 552.101 of the Government Code for the following reasons.¹

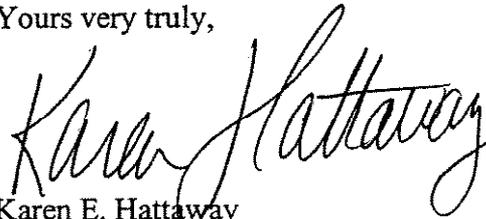
Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by the common-law right of privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The requestor, in essence, is asking that the police 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

¹This office will raise section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 police 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.

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/ch

Ref: ID# 110406

Enclosures: Submitted documents

cc: Ms. Roxanne M. Gonzalez
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(w/o enclosures)