



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 10, 1998

Ms. Dianne Eagleton
Supervisor, Records Division
North Richland Hills Police Department
P.O. Box 820609
North Richland Hills, Texas 76182-0609

OR98-0653

Dear Ms. Eagleton:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113862.

The North Richland Hills Police Department (the "department") received a request for department records concerning a certain individual. You assert that the requested information is excepted from required public disclosure based on section 552.108 of the Government Code. You also raise section 552.027 of the Government Code.

The requestor is asking for law enforcement records concerning a certain individual as suspect. Where an individual's criminal history information is compiled or summarized by a governmental body, the information takes on a character that implicates the individual's right of privacy. The privacy interest in criminal history record information has been recognized by federal regulations which limit access to criminal history record information that states obtain from the federal government or other states. *See* 28 C.F.R. § 20; *see also United States Dep't of Justice v. Reporters Comm. For Freedom of the Press*, 489 U.S. 749 (1989) (finding criminal history information protected from disclosure under Freedom of Information Act, 5 U.S.C. § 552, and Privacy Act of 1974, 5 U.S.C. § 552a). Recognition of this privacy interest has been echoed in open records decisions issued by this office. *See* Open Records Decision Nos. 616 (1993), 565 (1990), 216 (1978), 183 (1978), 144 (1976), 127 (1976). We therefore conclude that the department must withhold the requested information under section 552.101 of the Government Code¹ in order to protect the individual's privacy rights.

¹Section 552.101 excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. of the S. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.*

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref: ID# 113862

Enclosures: Submitted documents

cc: Ms. Patricia Davis
15406 Salt Cay #5
Corpus Christ, Texas 78418
(w/o enclosures)