



May 5, 1999

Mr. Charles M. Allen, II
Legal Office
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR99-1225

Dear Mr. Allen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123883.

The Richardson Police Department (the “department”) received a request for “any and all records pertaining to” a particular individual. You contend that the requested records are exempted from disclosure pursuant to section 552.108 of the Government Code. We conclude, however, that the department must withhold the requested records pursuant to section 552.101 of the Government Code.

Section 552.101 exempts from disclosure “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. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). To the extent the requestor is asking for any unspecified records in which the named individual is identified as a “suspect,” the requestor, in essence, is asking that the department compile this 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). Thus, to the extent such records exist, the department must withhold the individual's criminal history records from disclosure under section 552.101 in conjunction with the common-law right to privacy.

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 questions about this ruling, please contact our office.

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 123883

encl. Submitted documents

cc: Ms. Joyce Hawkins
15394 CR 617
Farmersville, Texas 75442
(w/o enclosures)