



November 12, 1999

Ms. Kristi LaRoe
Assistant District Attorney
Tarrant County
Justice Center
401 West Belknap
Fort Worth, Texas 76196-0201

OR99-3227

Dear Ms. LaRoe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 130821.

The Tarrant County Sheriff's Department (the "department") received a request for all investigation reports, field interview documentation or reports, and jail records or reports pertaining to and/or naming a specified individual as a suspect, witness or complainant. You have submitted copies of the responsive information. You claim that it is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

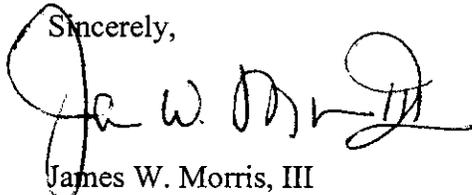
Your request for a decision is dated more than ten business days after the department's receipt of the written request for information. Under sections 552.301 and 552.302 of the Government Code, a governmental body has ten business days in which to either release requested information or request a decision from the attorney general and state the exceptions that apply to information that the governmental body wishes to withhold. When a governmental body fails to request a decision and state the exceptions that apply within ten business days of receiving a request for information, the information at issue is presumed to be public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App. – Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316 (Tex. App. – Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). To overcome this presumption, the department must demonstrate a compelling reason to withhold the requested information. Gov't Code § 552.302; Open Records Decision No. 319 (1982).

Section 552.101 of the Government Code provides such a compelling reason. Open Records Decision No. 150 (1977). Section 552.101 excepts from required public 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 that the requestor seeks unspecified records that identify the named individual as a suspect, the department is being asked, in essence, to compile that 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 limiting access to criminal history record information that states obtain from federal government or other states recognize privacy interest in such information). Open records decisions issued by this office also recognize this same privacy interest in such information. See Open Records Decision Nos. 616 (1993), 565 (1990). Therefore, the department must withhold the requested criminal history information from disclosure, pursuant to section 552.101 of the Government Code 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ch

Ref: ID# 130821

Encl. Submitted documents

cc: Ms. Rhonda J. Brashears, CLA
Underwood, Wilson, Berry, Stein & Johnson, P.C.
1500 Amarillo National Bank Building
P.O. Box 9158
Amarillo, Texas 79105-9158
(w/o enclosures)