



April 11, 2000

Ms. Lamis A. Safa
Assistant City Attorney
Legal Department
City of Houston
Post Office Box 1562
Houston, Texas 77251-1562

OR2000-1412

Dear Ms. Safa:

You ask whether certain information is subject to public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 135817.

The City of Houston received a request for "any and all documents pertaining to . . . arrests involving [a named individual]." You argue that the release of the documents would violate the named individual's common law right to privacy pursuant to section 552.101 of the Government Code. You additionally claim that driver's license numbers contained in the information is excepted from disclosure under section 552.130(a)(1) of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976). We note at the outset that the requestor is essentially asking for a compilation of criminal history information for the named individual.

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.

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). In the present case, the requestor is asking for unspecified records in which the named individual is identified. Thus, we find that the named individual's right of privacy has been implicated to the extent the named individual is identified as a suspect. Therefore, all compilations of the referenced individual's criminal history must be withheld pursuant to section 552.101. In summary, the information in its entirety is excepted from disclosure and must not be released pursuant to section 552.101 of the Government Code. Because section 552.101 is dispositive of all of the information, we need not address your section 552.130 claim.

This letter ruling is limited to the particular records at issue in this request and to the facts as presented to us. Therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Julie Reagan Watson".

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/cwt

Ref: ID# 135817

Encl. Submitted documents

cc: Mr. Salvador Colon
Attorney at Law
3213 Houston Avenue
Houston, Texas 77009
(w/o enclosures)