



October 2, 2000

Ms. Tenley Aldredge
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2000-3780

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 139749.

The Travis County Sheriff's Office (the "sheriff") received a request for an arrest report, on or about June 28, 2000, concerning a named individual. You have submitted for our review as responsive to the request two offense reports. You assert that this information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you assert, and we have reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or *by judicial decision*." (Emphasis added). You refer to the holding in *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989), and you argue that the information constitutes a compilation by the sheriff of a named individual's criminal history and therefore must be withheld in its entirety as implicating the named individual's right to privacy. This office has stated that 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 in a manner that the same individual records in an uncompiled state do not. Thus, when a request seeks all information held by a law enforcement agency concerning a named individual as a suspect or offender, essentially requiring a governmental entity to compile an individual's criminal history to respond to the request, the request may be denied as implicating the individual's right to privacy. *See id.*; *see also* Open Records Decision Nos. 616 (1993), 565 (1990). We do not believe that this request for information requires a compilation that implicates the named individual's right to privacy. Therefore, we conclude that the submitted documents may not be withheld in their entirety under section 552.101 of the Government Code.

Section 552.108 of the Government Code states in relevant part that “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted” from required public disclosure if “release of the information would interfere with the detection, investigation or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to “two separate criminal investigations that are ongoing.” We accordingly find that release of the information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, except as noted below, the sheriff may withhold the information pursuant to section 552.108(a)(1).

Section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle*. *See* Open Records Decision No. 127 (1976). Thus, with the exception of the basic offense and arrest information including a detailed description of the offense, which must be released to the requestor, the sheriff may withhold the requested information from disclosure based on section 552.108(a)(1). We note that the sheriff has the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov’t Code § 552.007.

Because section 552.108 is dispositive, we do not address the section 552.103 or 552.130 assertions except to note that section 552.103 also does not generally except from required public disclosure the basic information that is subject to release pursuant to section 552.108(c). Open Records Decision No. 362 (1983). This letter ruling is limited to ~~the particular records at issue in this request and limited 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).

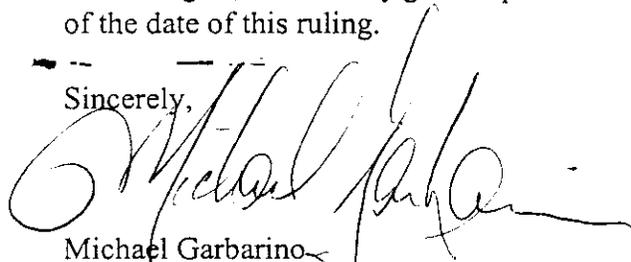
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

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,



Michael Garbarino
Assistant Attorney General
Open Records Division

MG/pr

Ref: ID# 139749

Encl. Submitted documents

cc: Mr. Richard Patrick
5403-B Brompton Circle
Austin, Texas 78745
(w/o enclosures)