



November 21, 2002

Mr. Lee Shapleigh
Assistant County Attorney
El Paso County
500 East San Antonio, Room 203
El Paso, Texas 73301

OR2002-6681

Dear Mr. Shapleigh:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 172554.

The El Paso County Attorney (the “county”) received a request for the names and addresses of employers of sex offenders registered in El Paso County. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes. Chapter 62 of the Code of Criminal Procedure governs the Sex Offender Registration Program. Under chapter 62, each sex offender with a reportable conviction or adjudication is required by law to register with the appropriate local law enforcement authority.¹ Article 62.02(b) requires that the Texas Department of Public Safety promulgate a form for registering persons required to register under chapter 62. Under article 62.02(b) the registration form shall require the following information:

¹ See Code Crim. Proc. art. 62.01(5) (defining “reportable conviction or adjudication”).

- (1) the person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, social security number, driver's license number, shoe size, and home address;
- (2) a photograph of the person and a complete set of the person's fingerprints;
- (3) the type of offense the person was convicted of, the age of the victim, the date of conviction, and the punishment received;
- (4) an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision;
- (5) an indication of each license, defined by Article 62.08(f), that is held or sought by the person; and
- (6) any other information required by the department.

The Texas Department of Public Safety maintains the information required by article 62.02 in a computerized central database. Crim. Proc. Code arts. 62.02(c), 62.08(a). Article 62.08(b) of the Code of Criminal Procedure provides:

The information contained in the database is public information, with the exception of any information:

- (1) regarding the person's social security number, driver's license number, or telephone number;
- (2) that is required by the [Texas Department of Public Safety] under Article 62.02(b)(6); or
- (3) that would identify the victim of the offense for which the person is subject to registration.

You indicate that the name and address of the employer of a registered sex offender are not items of information required under sections (1) through (5) of article 62.02(b). You have submitted a copy of the registration form for our review, and we note that the registration form requires the offender to provide the offender's occupation and the name of the offender's employer. You contend, however, that because the offender's occupation and the name of the offender's employer are not required under article 62.02(b)(1)-(5), this information is "other information required by the department" as referenced in article 62.02(b)(6). You therefore contend that pursuant to article 62.08(b)(2), this information is not subject to public disclosure. Based on your representations and our

review, we agree that names and addresses of employers of registered offenders in the county are not subject to public disclosure under article 62.08(b) of the Code of Criminal Procedure. We therefore conclude that the county must withhold the requested names and addresses pursuant to section 552.101 of the Government Code. You ask this office to issue you a previous determination for sex offender registration information. We decline to issue a previous determination for sex offender registration information at this time.

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 Hadassah Schloss at the Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 172554

Enc: Submitted documents

c: Ms. Louie Gilot
El Paso Times
P.O. Box 20
El Paso, Texas 77901
(w/o enclosures)