



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 25, 2003

Sargeant Thomas P. Karlok  
Custodian of Records  
Galveston Police Department  
P.O. Box 568  
Galveston, Texas 77553

OR2003-8554

Dear Sgt. Karlok:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 191817.

The City of Galveston (the "city") received a request for "copies of any citations, infractions, tickets, warnings, or other documents issued to [three named individuals] by any municipal department for any violation of law, municipal code, or other regulation along with any documents reflecting the final disposition of such offense." You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

As a preliminary matter, you state that the information submitted as Exhibits 2-A, 4-A, and 4-B consists of records of the municipal court. The Public Information Act (the "Act") generally requires the disclosure of information maintained by a "governmental body." See Gov't Code § 552.021. While the Act's definition of a governmental body is broad, it specifically excludes "the judiciary." See Gov't Code § 552.003(1)(A), (B). Based on your representation that the information in Exhibits 2-A, 4-A, and 4-B is maintained by the municipal court, we find that this information is not maintained by a governmental body for purposes of the Act.<sup>1</sup> We therefore determine that the information in Exhibits 2-A, 4-A,

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<sup>1</sup>Records of the judiciary may be public pursuant to other sources of law. Attorney General Opinions DM-166 at 2-3 (1992) (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974); see *Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released).

and 4-B are not subject to release under the Act. We note, however, that release of this information is within the discretion of the municipal court. *See* Open Records Decision No. 646 at 4 n. 3 (1996) (citing Open Records Decision No. 236 at 2-3 (1980)).

With respect to the remainder of the submitted information, we address your claimed exceptions to disclosure. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). When a law enforcement agency is asked to compile a particular individual's criminal history information, the compiled information takes on a character that implicates the individual's right to privacy in a manner that the same information in an uncompiled state does not. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989); *see also* Open Records Decision No. 616 at 2-3 (1993). In part, the present request seeks all law enforcement information maintained by the city concerning three named individuals. We find that the request implicates the individuals' right to privacy. Thus, to the extent the remainder of the information at issue depicts the named individuals as criminal suspects, arrestees, or defendants, we determine that the city must withhold the information under section 552.101 of the Government Code in conjunction with the common-law right of privacy pursuant to the decision in *Reporters Committee*.

In summary, the information in Exhibits 2-A, 4-A, and 4-B are records of the judiciary and are therefore not subject to release under the Act. To the extent the remainder of the submitted information depicts the named individuals as criminal suspects, arrestees, or defendants, the city must withhold the information under section 552.101 of the Government Code in conjunction with common-law privacy. Based on this finding, we do not reach your other claimed exceptions to disclosure.

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 Dep't of Pub. 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# 191817

Enc: Submitted documents

c: Mr. Mike Coffey  
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(w/o enclosures)