ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 18, 2004

Sheriff Dennis Wilson
Limestone County
1221 East Yeagua
Groesbeck, Texas 76642

OR2004-2070

Dear Sheriff Wilson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 197784.

The County of Limestone Sheriff's Office (the "office") received a request for "any criminal activity" regarding a named individual from 1997 to the present. You claim that the 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 the common-law right to privacy, which protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person and the public has no legitimate interest in it. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). 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). However, information that refers to an individual solely as a victim, witness, or involved person is not private under *Reporters Committee* and may not be withheld under section 552.101 on that basis. Likewise, information relating to routine traffic violations is not excepted from disclosure under section 552.101 in conjunction with common-law privacy. *Cf.* Gov't Code § 411.082(2)(B).

In this instance, the requestor seeks access to unspecified criminal records involving a named individual. Thus, this request for information implicates that individual's right to privacy. With the exception of information relating to routine traffic violations committed by the named individual which must be released, to the extent that the office maintains any information that relates to the named individual as a suspect, arrested person, or criminal defendant, the office must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy and *Reporters Committee.*

We note that portions of the submitted information include Texas driver's license numbers. Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle title or registration or driver's license or permit issued by an agency of this state. Gov't Code § 552.130(a)(1),(2). Accordingly, you must withhold the Texas driver's license numbers we have marked pursuant to section 552.130 of the Government Code.

In summary, any information maintained by the office that relates to the named individual as a suspect, arrested person, or criminal defendant must be withheld from disclosure pursuant to section 552.101 of the Government Code in conjunction with common-law privacy with the exception of information relating to routine traffic violations committed by the named individual. The Texas driver's license numbers we have marked must be withheld under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.

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,

Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/seg

Ref: ID# 197784

Enc. Submitted documents

c: Mr. Chris Raby
Cameron, Tyler, Logan & Associates
505 East Jackson Street, Suite 208
Tampa, Florida 33602
(w/o enclosures)