



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 22, 2005

Mr. Matt Parish  
Livingston Police Department  
208 West Church  
Livingston, Texas 77351

OR2005-08666

Mr. Parish:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 232926.

The Livingston Police Department (the "department") received a request for the first page of any offense reports, along with dispatch records, which involve five named individuals for the last ten years. 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.

Initially, we note that some of the submitted information, which we have marked, is not responsive to the instant request for information, as it was created outside of the requested time period. This ruling does not address the public availability of any information that is not responsive to the request, and the department need not release that information in response to this request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ *dism'd*).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses common law privacy. 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). In this instance, the requestor asks for all offense reports involving five individuals in the last ten years. In this case, we believe that these individuals' right to privacy has been implicated. Thus, the department must withhold any criminal records where the named individuals are listed as

suspects, arrestees, or criminal defendants, to the extent they exist, under common law privacy as encompassed by section 552.101 of the Government Code. *See id.* We note that information relating to routine traffic violations is not excepted from disclosure on this basis. *Cf.* Gov't Code § 411.082(2)(B).

You have submitted some documents which are related to routine traffic violations or which list the named individuals as victims or witnesses. These documents may not be withheld under section 552.101 in conjunction with *Reporters Committee*, but they do contain information that is confidential by law. Section 552.130 of the Government Code excepts from public disclosure information that relates to the following:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state.

Gov't Code § 552.130(a). We have marked the Texas motor vehicle record information that must be withheld under section 552.130 of the Government Code.

The submitted information also contains social security numbers. Section 552.147 of the Government Code<sup>1</sup> provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the department must withhold the social security numbers we have marked in the submitted information under section 552.147.<sup>2</sup>

In summary, the department must withhold any criminal records where the named individuals are listed as suspects, arrestees, or criminal defendants, to the extent they exist, under common law privacy as encompassed by section 552.101 of the Government Code. The department must also withhold the information we have marked under sections 552.130 and 552.147 of the Government Code. The remaining 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

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<sup>1</sup>Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, § 1, sec. 552.147(a) (to be codified at Tex. Gov't Code § 552.147).

<sup>2</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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,



James A. Person III  
Assistant Attorney General  
Open Records Division

JAP/sdk

Ref: ID# 232926

Enc. Submitted documents

c: Ms. Pamela K. Sanders  
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(w/o enclosures)