



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 12, 2005

Mr. Asem Eltiar  
Assistant Police Legal Advisor  
Arlington Police Department  
P.O. Box 1065  
Arlington, Texas 76004

OR2005-09256

Dear Mr. Eltiar:

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# 233942.

The Arlington Police Department (the "department") received a request for all information regarding a named individual and a specified address. You claim that the requested information is excepted from disclosure pursuant to 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" and encompasses the doctrine of common law privacy. Gov't Code § 552.101. Common law privacy protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). 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 U. S. 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). 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.

The present request asks for any reports pertaining to a named individual. This request requires the department to compile unspecified police records concerning the named

individual. Thus, we find that this request implicates this individual's right to privacy. Accordingly, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common law privacy pursuant to the decision in *Reporters Committee*.

Section 552.101 also encompasses information made confidential by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. Section 58.007(c) provides as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Upon review, we find that a portion of the information at issue, which we have marked, involves juvenile conduct that occurred after September 1, 1997. None of the exceptions in section 58.007 apply in this instance; therefore, the documents we have marked are confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 on that basis.

We note that a portion of the remaining submitted information is subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. Thus, the department must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130.

The remaining submitted information also contains an account number. Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or

maintained by or for a governmental body is confidential.” Gov’t Code § 552.136. The department must, therefore, withhold the account number we have marked under section 552.136.

Finally, we note that the remaining submitted information 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 under section 552.147.<sup>2</sup>

In summary, to the extent that the department maintains unspecified law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, such information must be withheld under section 552.101 of the Government Code in conjunction with the common law privacy concerns expressed in *Reporters Committee*. The department must withhold the information we have marked pursuant to section 552.101 in conjunction with section 58.007 of the Family Code. The department must also withhold the information we have marked under sections 552.130, 552.136, 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 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

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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.

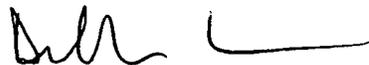
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental 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,



Debbie K. Lee  
Assistant Attorney General  
Open Records Division

DKL/seg

Ref: ID# 233942

Enc. Submitted documents

c: Mr. Rick Tice  
Arlington ISD  
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Arlington, Texas 76013  
(w/o enclosures)