



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 8, 1993

Ms. Roberta Lloyd Fremaux
Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR93-744

Dear Ms. Fremaux:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.).¹ Your request was assigned ID# 21674.

Harris County (the "county") has received a request for "any and all of [the requestor's] files." You have released some of the requested information; however, you contend that the information you have submitted for our review is excepted by sections 552.101 and 552.111 (former sections 3(a)(1) and 3(a)(11)) of the act. We address your arguments in turn.

You contend that some of the information contained in one of the documents you have submitted for our review is excepted by section 552.101 as "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." We agree. The document consists of teletype information from the National Crime Information Center (NCIC) and Texas Crime Information Center (TCIC). With regard to the NCIC information, Open Records Decision No. 565 (1990) at 10 ruled that information obtained from the NCIC network could not be released pursuant to federal law. With regard to the TCIC information, we assume from the manner in which you have marked the document that you intend to release the TCIC information obtained on the requestor. We note however, that additional TCIC information regarding other persons is contained within the requestor's personnel files. You seek to withhold these TCIC records that do not pertain to the requestor. The dissemination of criminal history

¹We note that the Seventy-Third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

information to someone other than the subject of the information is prohibited as an unwarranted invasion of personal privacy. See *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) at 188; Open Records Decision No. 616 (1993). You must therefore withhold the TCIC records that do not pertain to the requestor and the NCIC records pursuant to section 552.101.

You next argue that section 552.111 excepts the information you have marked on the remaining documents you submitted for our review. Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ) and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *Id.* at 5-6. As the requested information relates to a personnel matter, *i.e.*, the suspension of a county employee, we conclude that section 552.111 does not except it from required public disclosure. Therefore, except as noted above, you must release the requested information in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/rho

Ref.: ID# 21674

Enclosures: Marked documents

cc: Mr. Ricky L. Flory
6402 Bridgegate
Spring, Texas 77373
(w/o enclosures)