



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 30, 1994

Mr. Robert J. Young
Dallas County Community College District
701 Elm Street, Room 400
Dallas, Texas 75202-3299

OR94-305

Dear Mr. Young:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 26509.

The Dallas County Community College District (the "college district") has received a request for certain personnel file information. The requestor seeks "copies of any complaints filed against Chief Wayne Wilkins, who heads up security at El Centro Community College. . . . [Specifically, any] complaints filed against [him] during his tenure . . . at El Centro, as well as during his time on the security force at Mountainview Community College." In addition, the requestor seeks "the personnel files of Chief Wilkins reflecting his record at both El Centro and Mountainview Colleges." You advise us that the college district has made most of the requested information available to the requestor. You seek our determination with respect to portions of a certain memorandum, which you have submitted to us for review. You claim that sections 552.101 and 552.102 of the Government Code except this information from required public disclosure.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.102 excepts "information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 552.102 of the Government Code protects personnel file information only if its release would cause an invasion of privacy under the test articulated for section 552.101 by the Texas Supreme Court in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). See *Hubert v. Harte-Hanks Tex. Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public.

We have examined the information for which you seek protection under sections 552.101 and 552.102 of the Government Code. We agree that some of the information that you have marked is intimate or embarrassing and is of no legitimate public concern. *See, e.g.*, Open Records Decision Nos. 470 (holding that fact that a person broke out in hives as a result of severe emotional distress is excepted by common-law privacy), 455 (holding that kinds of prescription drugs a person is taking are protected by common-law privacy) (1987); 343 (1982) (holding that information regarding drug overdoses, acute alcohol intoxication, obstetrical/gynecological illnesses, convulsions/seizures, or emotional/mental distress is protected by common-law privacy). On the other hand, we believe there is a legitimate public interest in some of the information you seek to withhold.¹ We have marked the information that the college district must withhold under sections 552.101 and 552.102 of the Government Code. The remaining information must be disclosed.

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 this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/GCK/rho

Ref.: ID# 26509

Enclosures: Marked documents

cc: Ms. Miriam Rozen
Dallas Observer
2130 Commerce Street
Dallas, Texas 75201
(w/o enclosures)

¹We note that the individual who has a privacy interest in the marked information may consent to its release. If this individual waives his common-law privacy interests in the information, the college district should disclose the information in its entirety.