



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 7, 1997

Ms. Roxann Pais
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR97-0725

Dear Ms. Pais:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 104684.

The City of Dallas Police Department (the "department"), which your office represents, received a request for "the entire (OPEN FILE) file of arrest records" for a specified individual. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code.

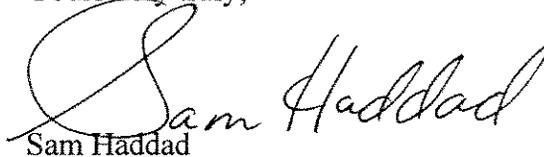
Although you have not raised section 552.101 as an applicable exception, we note that the Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses the doctrines of common-law and constitutional privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

You have submitted to our office some information which may be classified as criminal history record information ("CHRI"). We believe the compilation of all offense reports of a named individual constitutes a criminal history record of that individual. Criminal history information may be withheld from required public disclosure under common-law privacy if it meets the criteria articulated for section 552.101 of the act by the Texas Supreme Court in *Industrial Foundation*.

In *United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989), the United States Supreme Court concluded that where an individual's CHRI is compiled or summarized by a governmental entity, the information takes on a character that implicates an individual's right of privacy in a manner that the same individual records in an uncompiled state do not. Based on *Reporters Committee*, this office has concluded that a request for all law enforcement records of a specified individual implicates the individual's common-law privacy rights, and the responsive information is excepted from disclosure under section 552.101. Therefore, if the submitted records at issue contain any CHRI regarding the subject of the open records request, this information is excepted from required public disclosure by a common-law right of privacy. Thus, we conclude, you must withhold any CHRI information from the requestor under section 552.101 of the Government Code in conjunction with the common-law right to privacy.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision.² This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

¹As we resolve your request under section 552.101, we need not address your claimed exception under section 552.108 at this time.

²In reaching our conclusion, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Ref.: ID# 104684

Enclosures: Submitted documents

cc: Ms. Latonia Wilson
1816 E. Ann Arbor Avenue
Dallas, Texas 75216-6313
(w/o enclosures)

