



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 16, 1998

Ms. Katheryn H. West
Assistant City Attorney
Prosecution Division
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR98-1477

Dear Ms. West:

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# 116798.

The Dallas Police Department (the "department") received an open records request for all arrest records, supplementary reports, and incident reports pertaining to four named individuals. You contend the information, as requested, implicates the privacy rights of the named individuals and therefore is excepted from required public disclosure pursuant to section 552.101 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

In *United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989), the U.S. Supreme Court concluded that where an individual's criminal history is compiled or summarized by governmental entity, the information takes on a character that implicates the individual's right of privacy in a manner that the same individual records in an uncompiled state do not. Accordingly, to the extent that the request encompasses information identifying the named individuals as a suspect or arrestee, the requestor essentially is asking that the department compile the criminal histories of those individuals. We therefore conclude that the department must withhold the requested information pursuant to section 552.101.

On the other hand, these individuals' privacy interests are not implicated where they are identified as being either a victim or witness. Because you have raised none of the act's other exceptions to public disclosure, any such records held by the department must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/rho

Ref.: ID# 116798

Enclosures: Submitted documents

cc: Mr. Henry Coke
4251 Potomac Ave.
Dallas, Texas 75201
(w/o enclosures)