



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 24, 1998

Mr. William M. Toles
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
Municipal Building
Dallas, Texas 75201

OR98-1741

Dear Mr. Toles:

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# 117035.

The Dallas Police Department (the "department") received an open records request for four "criminal background checks," including that of the requestor.¹ You contend that these documents are excepted from public disclosure pursuant to section 552.101 of the Government Code, which protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

The dissemination of criminal history record information ("CHRI") obtained from the NCIC network is limited by federal law. *See* 28 C.F.R. § 20.1; Open Records Decision No. 565 (1990) at 10-12. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 (1990) at 10-12. Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the CHRI except to another criminal justice agency for a criminal justice purpose. Gov't Code § 411.089(b)(1). Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations.

¹The requestor also seeks additional information: 1) all records pertaining to the criminal background checks, including records reflecting who authorized the check, and 2) all records pertaining to an investigation of "an incident that happen [sic] in check distribution of the city controller's office," including a transcript of a tape recorded interview with the requestor. Although you have submitted to this office one document that appears to be responsive to these requests, you have not argued that these other requested materials are excepted from required public disclosure. We therefore assume that either these records do not exist or the department has released these documents to the requestor. *See* Gov't Code §§ 552.301(a), .302.

Furthermore, any CHRI obtained from the Texas Department of Public Safety or any other criminal justice agency must be withheld as provided by Government Code chapter 411, subchapter F.²

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,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/RWP/mjc

Ref.: ID# 117035

Enclosures: Submitted documents

cc: Ms. Veronica L. Gardner-Daniels
1615 John West Road, #1233
Dallas, Texas 75228
(w/o enclosures)

²Individuals may, however, gain access to their own criminal history and arrest records. Attorney General Opinion MW-95 (1979). The Code of Federal Regulations requires criminal justice agencies that utilize the services of Department of Justice criminal history record information systems to establish procedures for any individual to gain access to and review his criminal history record information for completeness and accuracy, provided that the individual pay any required processing fee and verify his identity by fingerprint comparison. See 28 C.F.R. § 20.34(a). We further note that it is the policy of the Department of Public Safety, which administers the NCIC and maintains the TCIC, to provide any individual with access to his criminal history record on file, utilizing the procedure as outlined in section 27.1 of title 37 of the Texas Administrative Code.