



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 28, 1998

Ms. M. Patrice Benford
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR98-1777

Dear Ms. Benford:

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# 117233.

The Dallas Police Department (the "department") received an open records request for all records pertaining to two internal affairs investigations. You state that the department will provide one of the IAD files to the requestor. You seek to withhold the remaining file pursuant to section 552.101 of the Government Code in conjunction with the common-law right of privacy.

Because the records at issue pertain to a city employee, we believe that section 552.102(a) of the Government Code is the more applicable exception in this instance. Section 552.102(a) excepts from required public disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 552.102(a) is designed to protect public employees' personal privacy. The scope of section 552.102(a) protection, however, is very narrow. *See* Open Records Decision No. 336 (1982); *see also* Attorney General Opinion JM-36 (1983). The test for section 552.102(a) protection is the same as that for information protected by common-law privacy under section 552.101: the information must contain highly intimate or embarrassing facts about a person's *private* affairs such that its release would be highly objectionable to a reasonable person *and* the information must be of no legitimate concern to the public. *Hubert v. Harte-Hanks Tex. Newspapers, Inc.*, 652 S.W.2d 546, 550 (Tex. App.--Austin 1983, writ ref'd n.r.e.).

Most of the information at issue pertains solely to the employee's actions as a public servant, and as such cannot be deemed to be outside the realm of public interest. *See* Open Records Decision No. 444 (1986) (public has legitimate interest in knowing reasons for dismissal, demotion, promotion, or resignation of public employees). On the other hand, we agree that some of the information at issue implicates the employee's privacy interests. We have marked the information that the department must withhold pursuant to section 552.102(a). The remaining information must be released to the requestor.

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/nc

Ref.: ID# 117233

Enclosures: Submitted documents

cc: Mr. Michael Cronig
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(w/o enclosures)