

January 7, 1999



OFFICE OF THE  
ATTORNEY GENERAL  
STATE OF TEXAS

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JOHN CORNYN  
Attorney General

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Mr. Michael J. Bostic  
Assistant City Attorney  
Criminal Law and Police Division  
Municipal Building  
Dallas, Texas 75201

OR99-0032

Dear Mr. Bostic:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120819.

The Dallas Police Department (the "department") received a request for information concerning whether a former police officer was "fired or had to go into retirement." You submitted to this office the responsive documents, which you contend are protected from disclosure under a common-law right of privacy as protected under section 552.101 of the Government Code.

We note initially that in your September 28, 1998 letter to this office, you discuss the type of information you seek to protect in the records. It appears that a copy of the September 28, 1998 letter was sent to the requestor. Because your letter disclosed the very information that you seek to protect, we assume that a redacted copy of that letter was sent to the requestor rather than a copy that revealed the information you feel is confidential. In issuing this ruling, we assume that you do not seek a decision from this office concerning information that the city has already revealed to the requestor. With this understanding, we will address your section 552.101 argument against disclosure of the information at issue.

The test to determine whether information is private and excepted from disclosure under common-law privacy provisions, which are encompassed in section 552.101 and section 552.102 of the Government Code, is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977); *Hubert v. Harte-Hanks Tex. Newspapers Inc.*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.).

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However, there is generally a legitimate public concern about the job performance of a public employee and also that employee's reasons for leaving a position. Open Records Decision Nos. 470 at 4 (1987) (public has a legitimate interest in the job performance of public employees), 423 at 2 (1984) (scope of public employee privacy is narrow). We have reviewed the documents at issue and, while we agree that some information is protected from disclosure, the majority of the information concerns matters in which the public has a legitimate interest. Thus, the department must redact one portion of a record that we believe contains confidential information, but must release the remaining information.

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,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy", with a stylized flourish at the end.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref: ID# 120819

Enclosures: Submitted documents