

January 12, 1999



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Ms. Christine Lanners
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR99-0084

Dear Ms. Lanners:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121428.

The City of Dallas Police Department received a request for "complete arrest files & offense reports and any other info on" a named individual. You contend that the requested information must be withheld under section 552.101 of the Government Code.

Section 552.101 requires withholding information made confidential by statutory or constitutional law or by judicial decision. You argue that under section 552.101, "where an individual's criminal history information has been compiled or summarized by a 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."

While the principle you recite applies to compilations of an individual's *criminal history*, see *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989), the records you have submitted as responsive to the request here all pertain to the named individual as a *complainant*.¹ The requested records are thus not generally subject to privacy protection or other aspects of the section 552.101 exception to disclosure.

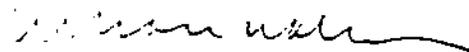
¹See also 28 C.F.R. § 20.3(b), defining "criminal history information" as "information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release."

A portion of the submitted information, however, contains criminal history information pertaining to another individual. Such criminal history information is exempt from public disclosure pursuant to the aspect of section 552.101 which excepts from disclosure information made confidential by statute.

Title 28, Part 20 of the Code of Federal Regulations governs the release of criminal history record information ("CHRI") which states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (the "DPS") maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov't Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose, *id.* § 411.089(b)(1). Other entities specified in Chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release the information except as provided by Chapter 411. *See generally id.* §§ 411.090 - .127. 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. *See* Open Records Decision No. 565 (1990). Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. *But see also* Gov't Code § 411.135 (criminal history information available from Department of Public Safety). We have marked the CHRI which must be withheld under the provisions cited above. Otherwise, the submitted information 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,



William Walker
Assistant Attorney General
Open Records Division

WMW/eaf

Ref: ID# 121428

Enclosures: Marked documents

cc: Mr. Robert L. Stromberg
P.O. Box 1495
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(w/o enclosures)