



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1995

Ms. Detra G. Hill
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR95-1496

Dear Ms. Hill:

You have asked 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# 35219.

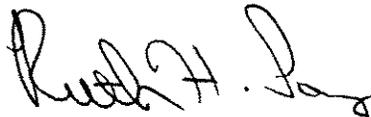
The City of Dallas (the "city") received requests for information concerning the internal investigation of a former Dallas police officer. One requestor asked for the investigation summary and a statement by the named officer, but indicated she was not interested in the entire investigation file. The other requestor asked for only the portions of the information relating to the named officer, but not information relating to other individuals. You contend that the investigation summary and the named officer's statement contain "detailed descriptions of private acts" of the former officer and other individuals and that these documents are therefore confidential under sections 552.101 and 552.102.

The test to determine whether information is private and excepted from disclosure under either section 552.101 or section 552.102 is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977); *Hubert v. Harte-Hanks Texas Newspapers Inc.*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Our review of the information at issue indicates that the information is intimate or embarrassing to a reasonable person. However, the public generally has a legitimate interest in the job performance of public employees. *See* Open Records Decision No. 470 (1987) at 5. The information at issue concerns the behavior of public employees while on the job.

We note that both requestors appear to be interested in information only as it relates to the named officer. It may be that the requestors are seeking information about the named officer only and would accept de-identified information concerning the other individuals named in the investigation and statement. Since there is a legitimate public interest in the details of the investigation as it concerns the named officer, and in his statement about the events that are the subject of the investigation, this information must be released.¹ However, we think that common-law privacy will protect the identities of some of the identified individuals other than the police officers identified. We have marked several pages of the investigation report as a sample to show the type of information we believe to be protected from disclosure under common-law privacy. If the request is actually for all of the information at issue, you must release the summary and statement except for the type of information we have marked in the sample. The type of information we have marked in the sample is confidential and may not 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 may not be relied upon as a previous determination regarding any other records.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/rho

Ref.: ID# 35219

Enclosures: Marked documents

cc: Mr. Luke Lawrence
1047 Batchler Road
Red Oak, Texas 75154
(w/o enclosures)

¹You contend that the information is of no legitimate concern to the public since the named officer is not currently employed with the Dallas Police Department. We note that since the named officer was a public servant at the time of the activities that were the subject of the investigation and statement, the information at issue is of legitimate public concern.

Ms. Kim Lawrence
1047 Batchler Road
Red Oak, Texas 75154
(w/o enclosures)