



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 27, 1996

Mr. Mitchell S. Milby  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR96-1031

Dear Mr. Milby:

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# 40132.

The City of Dallas (the "city") received an open records request for the disciplinary records of two named police officers. You have submitted as responsive to the request records pertaining to a single disciplinary action taken against one of those officers. We therefore assume that the city does not maintain any other responsive records. You contend that the records at issue are protected from public disclosure by common-law privacy as incorporated into sections 552.101 and 552.102 of the Government Code.<sup>1</sup>

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 Texas Newspapers, Inc.*, 652 S.W.2d 546, 550 (Tex. App.--Austin 1983, writ ref'd n.r.e.).

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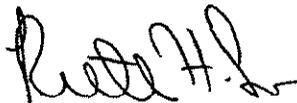
<sup>1</sup>We assume that the records you have submitted to this office for review are a part of the police officer's civil service file, *see* Loc. Gov't Code § 143.089(f), and thus are not confidential under section 143.089(g) of the Local Government Code.

The information at issue pertains solely to the police officer's allegedly criminal actions while serving as a peace officer, 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). *See also* Open Records Decision No. 611 (1992) (common law privacy does not, as matter of law, protect all records regarding family violence). The city may not withhold any of the requested information on these grounds.

We note, however, that section 552.117(2) protects the home addresses and telephone numbers of "a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code." Unlike other public employees, a peace officer need not affirmatively claim confidentiality for this information. Open Records Decision No. 488 (1988); *see also* Open Records Decision No. 506 (1988). The city, therefore, must withhold this information from the requestor. Section 552.117(2) also makes confidential any information that reveals the identities of a peace officer's family members. We have marked the portions of the report that the city must withhold to protect this type of information. The city must release all remaining portions of the requested documents.

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,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/RWP/rho

Ref.: ID# 40132

Enclosures: Marked documents

cc: Mr. Martin Smith  
600 Highland Park Place  
4514 Cole Avenue  
Dallas, Texas 75205  
(w/o enclosures)