



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 18, 1998

Ms. Sharon Sela
Assistant City Attorney
Criminal Law And Police Division
City of Dallas Municipal Bldg
Dallas, Texas 75201

OR98-2246

Dear Ms Sela:

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# 118588.

The Dallas Police Department (the "department") received an open records request for all police incident reports pertaining to two named individuals. You contend the information, as requested, implicates the privacy rights of the named individuals, and therefore, is excepted from required public disclosure pursuant to section 552.101 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

To the extent the requestor is asking for any unspecified records in which the named individuals are identified as a "suspect," the requestor, in essence, is asking that the department compile those individuals' criminal history. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such

information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See* Open Records Decision Nos. 616 (1993), 565 (1990). The department, therefore, must withhold all compilations of the referenced individuals' criminal histories pursuant to section 552.101.¹

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/RWP/nc

Ref: ID 118588

Enclosures: Submitted documents

cc: Ms. Marybeth Krebs
200 Crescent Court
Ste 1500
Dallas, Texas 75201
(w/o enclosures)

¹On the other hand, these individuals' privacy interests are not implicated where they are identified as being either a victim or witness. Because you have raised none of the act's other exceptions to public disclosure, any such records held by the department must be released.