



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 16, 1998

Ms. J. Middlebrooks  
Assistant City Attorney  
Criminal Law & Police Division  
City of Dallas  
1500 Marilla  
Dallas, Texas 76201

OR98-3147

Dear Ms. Middlebrooks:

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# 120654.

The Dallas Police Department (the "department") received an open records request from a city police officer for records related to psychological testing he received during his reinstatement with the department, including test results and score sheets. You state that some information will be released to the requestor, but contend that the department must withhold all "test data," including the requestor's "score sheets," pursuant to section 552.101 of the Government Code.<sup>1</sup>

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You have cited no law that makes the information at issue confidential or that would otherwise except the information from required public disclosure. You have, however, directed our attention to a provision of the Texas Administrative Code that purports to make all "test data" the personal property of the mental health professional conducting the testing.

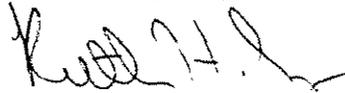
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<sup>1</sup>Because you have submitted to this office a blank score sheet as representative of the information at issue, we limit the scope of this ruling to the score sheet completed by the requestor during the course of his reinstatement.

Because information held by a governmental body must be released unless it falls within at least one of the act's specific exceptions, a governmental body cannot close information by agency rule. *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Authority to close records from public disclosure must be granted expressly by statute; it cannot be implied from general rulemaking authority. *Id.* On the other hand, we note that section 611.0045 of the Health and Safety Code grants an individual a special right of access to his mental health records. *See also* Health & Safety Code § 611.008. Consequently, absent statutory authority to the contrary, the department must release the requestor's score sheet to him, notwithstanding any provision contained in the Texas Administrative Code specifying otherwise.

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/ch

Ref.: ID# 120654

Enclosures: Submitted documents

cc: Mr. Danny W. Robinson  
212 W. Wintergreen, #2083  
DeSoto, Texas 75115  
(w/o enclosures)