



February 17, 1999

Ms. Heather Silver  
Assistant City Attorney  
Criminal Law Police Division  
City of Dallas  
Municipal Building  
Dallas, Texas 75201

OR99-0484

Dear Ms. Silver:

You ask this office to reconsider our decision in Open Records Letter No. 98-2520 (1998). Your request for reconsideration was assigned ID# 122046.

You ask that we reconsider our decision in Open Records Letter No. 98-2520 because you state that the City of Dallas (the "city") failed to provide this office with a complete representative sample of the requested information. You had submitted a representative sample of offense reports in which the person inquired about was a complaining witness. The sample of the requested information you now submit includes offense reports in which the person the requestor inquired about is the defendant. You maintain that this sample consists of a compilation of a person's criminal history that is protected from public disclosure based on section 552.101 of the Government Code.

This information was not submitted in accordance with the deadlines for submissions set out in the Open Records Act. Gov't Code § 552.301. Because the release of confidential information is a misdemeanor and constitutes official misconduct, and because the release of criminal history information implicates the privacy rights of a third party, we will review the city's untimely submissions. Gov't Code § 552.352.

Section 552.101 of the Government Code excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by 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). The release of a compilation of offense reports in which an individual is listed as the suspect implicates that individual's common-law right to privacy. See *United States Dep't of Justice v. Reporters Comm. For Freedom of the Press*, 489 U.S. 749 (1989); *Houston Chronicle Publishing Co.*, 531 S.W.2d at 179. Accordingly, the city must not release such a compilation. Gov't Code § 552.101; see also *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The reports in which the person inquired about was a complaining witness must still be released in accordance with our previous ruling.

We are resolving this matter with this 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. If you have questions about this ruling, please contact our office.

Sincerely,



Kay Hastings  
Deputy Chief  
Open Records Division

KHH/ch

Ref.: ID# 122046

Enclosures: Submitted documents

cc: Ms. Dora Meccia  
P.O. Box 688  
Cornwall, New York 12518  
(w/o enclosures)