



February 4, 2000

Mr. Steven Monté  
Assistant City Attorney  
Office of City Attorney  
City of Dallas  
2014 Main Street, Room 206  
Dallas, Texas 75201

OR2000-0400

Dear Mr. Monté :

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131866.

The City of Dallas (the "city") received a request for information related to the investigation of two city employees regarding allegations of abuse of official capacity. You state that you have released some of the responsive information. However, you claim that certain financial records pertaining to the employees is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.<sup>1</sup>

You assert that the submitted information is excepted from disclosure under section 552.101. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses common law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information must be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure.

---

<sup>1</sup>We note that the city received the request for information on November 15, 1999. The city indicates that its offices were closed for business on November 25 and 26, 1999. The city submitted its request for an attorney general ruling to our office on December 1, 1999, the tenth business day after the city received the public information request. See Gov't Code § 552.301(b). Subsequently, the city submitted copies of the requested information on December 3, 1999, within fifteen days of the receipt of the request. See Gov't Code § 552.301(e). Therefore, the city has met its statutory burden.

*Id.* at 685; Open Records Decision No. 611 at 1 (1992). Previously, this office has found that common law privacy protects an individual's personal financial information which is not related to a financial transaction between the individual and a governmental body. In this instance, however, the submitted information consists solely of either public records filed with the county, or information that has been derived from public records. Thus, there is no common law privacy interest to protect. Therefore, the city may not withhold the information pursuant to section 552.101 of the Government Code in conjunction with the common law right to privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990).<sup>2</sup>

However, we note that the submitted information contains information that is excepted from disclosure pursuant to section 552.101 of the Government Code. Section 552.101 encompasses information protected by other statutes. Among the information submitted for our review is a notation that appears to contain criminal history record information ("CHRI") generated by the Texas Crime Information Center ("TCIC"), the National Crime Information Center ("NCIC"), or the district attorney. The dissemination of CHRI obtained from the NCIC network is limited by federal law. *See* 28 C.F.R. § 20.1; Open Records Decision No. 565 at 10-12 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 10-12 (1990). Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose, Gov't. Code § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations, *see* Open Records Decision No. 565 (1990), and any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. We have marked the information which must be withheld. The remaining information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

---

<sup>2</sup>We also note that some of the submitted information consists of records of property owned by the requestor. We believe the requestor has a special right of access to information related to property owned by the requestor himself. *See* Gov't Code § 552.023.

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/ch

Ref: ID# 131866

Encl. Submitted documents

cc: Mr. Neely Blackman, Sr.  
815 Allen Street  
Dallas, Texas 75204  
(w/o enclosures)