



March 21, 2000

Mr. Edward R. Smith, Jr.  
Special Assistant to the Superintendent  
Chief Intergovernmental Relations Department  
Dallas Public Schools  
3700 Ross Avenue, Box 9  
Dallas, Texas 75204-5491

OR2000-1111

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133703.

The Dallas Independent School District (the "district") received a request for information related to a district employee. You indicate that you have released information responsive to this request; however, you seek to withhold any responsive information "which may have revealed any past criminal activity." You have submitted the information which you seek to withhold to this office for review. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information deemed confidential by law, either constitutional, statutory, or by judicial decision." Criminal History Record Information ("CHRI") is made confidential under several provisions of law. Section 22.083 of the Education Code authorizes school districts to obtain CHRI related to their employees, applicants, and volunteers from any law enforcement or criminal justice agency. Federal regulations generally prohibit the subsequent release or disclosure of such CHRI obtained by noncriminal justice agencies. *See* 28 C.F.R. § 20.21(c)(1). School districts are also authorized to obtain CHRI from the Department of Public Safety. Gov't Code § 411.097. Section 411.097 of the Government Code states that a school district may not release this CHRI "to any person, other than the individual who is the subject of the information, the

Texas Education Agency, the State Board for Educator Certification, or the chief personnel officer of the transportation company.” Gov’t Code § 411.097(c). Consequently, any information obtained pursuant to or governed by these statutes must be withheld.

Responsive information not subject to section 411.097 is protected by a right of privacy. 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). Open records decisions issued by this office acknowledge this privacy interest. *See* Open Records Decision Nos. 616 (1993), 565 (1990). From our review of the submitted information we conclude that it is Criminal History Record Information obtained from several sources and compiled by the district. This information must be withheld under section 552.101 of the Government Code.

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.

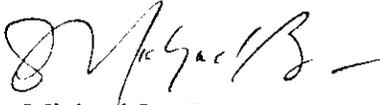
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge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

A handwritten signature in black ink, appearing to read "Michael Jay Burns", with a horizontal line extending to the right.

Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/nc

Ref: ID# 133703

Encl Submitted documents

cc: Mr. Frank Trejo  
Dallas Morning News  
P.O. Box 655237  
Dallas, Texas 75265  
(w/o enclosures)