



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 6, 2005

Mr. Steven Monté  
Assistant City Attorney  
City of Dallas  
501 Police & Courts Building  
Dallas, Texas 75201

OR2005-03923

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 223759.

The Dallas Police Department (the "department") received a request for "pawn shop records" pertaining to four named individuals, "criminal records" pertaining to two named individuals, and certain other reports. You state that you have released some requested information but claim that other 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 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes. Section 371.206 of the Finance Code reads as follows:

Information obtained during an examination or inspection authorized by this subchapter is confidential and privileged except for use by the [consumer credit] commissioner or in a criminal investigation or prosecution.

Fin. Code § 371.206. Additionally, section 371.204 of the Finance Code requires a pawnbroker to allow a peace officer to inspect the pawnbroker's books, accounts, papers, correspondence, or other records that relate to the business of the pawnbroker at any reasonable time without judicial writ or other process. You inform us that the submitted records "pertain[] to information acquired from an inspection by a peace officer under section 372.204." Based on your representations and our review, we agree that some of the submitted information, which we have marked, is confidential pursuant to section 371.206

of the Finance Code and must therefore be withheld under section 552.101 of the Government Code.

You also claim that some of the submitted information is protected under the doctrine of common-law privacy, which is also encompassed by section 552.101. Common-law privacy protects information if it: (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person; and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683. In addition, this office has found that the following types of information are excepted from required public disclosure under common-law privacy: an individual's criminal history when compiled by a governmental body, *see* Open Records Decision No. 565 (citing *United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989)); personal financial information not relating to a financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). We have reviewed the submitted records and marked the information that must be withheld pursuant to section 552.101 in conjunction with common-law privacy.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with 371.206 of the Finance Code. The department must also withhold the information we have marked under section 552.101 and common-law privacy. 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 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Robert B. Rapfogel  
Assistant Attorney General  
Open Records Division

RBR/krl

Ref: ID# 223759

Enc. Submitted documents

c: Ms. Ann Smith  
P. O. Box 515542  
Dallas, Texas 75251  
(w/o enclosures)