



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 19, 2009

Ms. Teresa J. Brown
Senior Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2009-03602

Dear Ms. Brown:

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# 341917.

The Plano Police Department (the "department") received a request for information regarding a specified incident involving a named individual. You claim that the submitted call for service report 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Id.* at 685. To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Although this office has found that certain, specific medical information or information indicating disabilities or specific illnesses is protected by common-law privacy, you have failed to demonstrate how any of the information at issue is subject to this aspect of common-law privacy. *See* Open Records Decision No. 455 (1987) (information pertaining to specific prescription drugs, specific illnesses, operations and procedures, and physical disabilities protected from disclosure under common-law privacy). Thus, no information may be withheld under section 552.101 on this basis.

You also claim that the information at issue may be subject to constitutional privacy. Constitutional privacy is also encompassed by section 552.101 of the Government Code and consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions

independently and (2) an individual's interest in avoiding disclosure of personal matters. Open Records Decision No. 455 at 4 (1987). The first type protects an individual's autonomy within "zones of privacy" which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual's privacy interests and the public's need to know information of public concern. *Id.* The scope of information protected is narrower than that under the common-law doctrine of privacy; the information must concern the "most intimate aspects of human affairs." *Id.* at 5 (citing *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)). You have failed to submit any arguments that explain how release of any portion of the remaining information would impair an individual's right to make certain kinds of decisions independently or would implicate an individual's interest in avoiding disclosure of personal matters. Accordingly, none of the information at issue may be withheld under section 552.101 in conjunction with constitutional privacy. As no other arguments are made, the submitted information must be released to the requestor in its entirety.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eb

Ref: ID# 341917

Enc. Submitted documents

c: Requestor
(w/o enclosures)