



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 3, 2009

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

OR2009-07574

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# 345037.

The Plano Police Department (the "department") received a request for all information pertaining to the requestor or certain named individuals, including seven specified reports. You state that some responsive information has been released to the requestor. You claim that the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered your claimed exception.

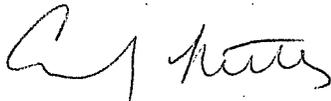
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information that (1) contains 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). This office has held the compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, we find the compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request seeks all police records involving the requestor or certain named individuals. This request, in part, requires the department to compile the individuals' criminal histories. We note, however, that section 552.023 of the Government Code gives a person a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from disclosure by laws intended to protect that person's privacy interests. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Accordingly, the department may not withhold information under section 552.101 of the Government Code in order to protect the requestor's common-law privacy interests. However, this request for unspecified law enforcement records implicates the named individuals' privacy rights. Therefore, to the extent the department maintains law enforcement records depicting any of the named individuals, other than the requestor, as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 345037

Enc. Submitted documents

c: Requestor
(w/o enclosures)