



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 12, 2010

Ms. Delietrice Henry
Open Records Assistant
City of Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2010-06794

Dear Ms. Henry:

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# 384147.

The Plano Police Department (the "department") received a request for police records pertaining to two named individuals and information related to a specified incident. You state that the requestor has been referred to the municipal court regarding some of the requested records. You state the department has released some of the responsive information. You claim that the remaining requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

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 reasonably person, and (2) is not of legitimate

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82.

A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. 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 that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. The present request, in part, seeks police reports pertaining to two named individuals. This portion of the request requires the department to compile the named individuals' criminal histories. We find this request for unspecified law enforcement records implicates the named individuals' rights to privacy. Therefore, to the extent the department maintains law enforcement records depicting either of the named individuals as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy.

However, we note that the requestor also seeks information related to a specified incident. This information does not implicate the named individuals' common-law privacy concerns. Therefore, we will address your claimed exception for this information, a representative sample of which has been submitted as Exhibit C:

You raise section 552.108(a)(1) of the Government Code for the information in Exhibit C. You state you will withhold this information under section 552.108, as it relates to an ongoing criminal investigation, based upon the ruling in *Attorney General v. Plano Police Department*, No. GV-001919 (126th Dist., Travis County, Tex., December 18, 2000). Therefore, with the exception of basic information, which you state has been released, the department may withhold Exhibit C under section 552.108(a)(1) in accordance with the ruling in *Attorney General v. Plano Police Department*. We note that you have the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

In summary, to the extent the department maintains law enforcement records depicting either of the named individuals as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy. With the exception of basic information, which you state has been released, the department may withhold Exhibit C under section 552.108(a)(1) of the Government Code in accordance with the ruling in *Attorney General v. Plano Police Department*.

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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 384147

Enc. Submitted documents

c: Requestor
(w/o enclosures)