



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 5, 2011

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

OR2011-04678

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# 413650 (Plano ORR# AYCD011311).

The Plano Police Department (the "department") received a request for information pertaining to a specified incident. You state you have released some of the requested information. You claim some of 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 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). The types of information considered intimate or 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. *Id.* at 683. You contend some of the submitted information is protected by common-law privacy. Upon review, we find the information we have marked is highly intimate or embarrassing and not of legitimate public interest. Thus, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. Although the remaining information at issue may be considered highly intimate or embarrassing, we find there is a legitimate public interest in this information as it pertains to an individual threatening to harm others. Consequently, none of the remaining

information at issue may be withheld under section 552.101 of the Government Code on the basis of common-law privacy.

Section 552.101 of the Government Code also encompasses the doctrine of constitutional privacy. Constitutional privacy 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; see *Ramie v. City of Hedwig Village*, 765 F.2d 490 (5th Cir. 1985). After review of the remaining information, we find it does not contain information that is confidential under constitutional privacy; therefore, the department may not withhold it under section 552.101 on that ground.

In summary, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must release the remaining information.

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](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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/eeg

Ref: ID# 413650

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)