



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 20, 2011

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

OR2011-10325

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# 425200.

The City of Plano Police Department (the "department") received a request for information pertaining to all 2009-2010 incidents that occurred at a specified address involving two named individuals (Plano ID# HOLW050611). You state that some information has been released to the requestor, and claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information that is 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 type 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.

The submitted documents contain information that is considered highly intimate or embarrassing and is not of legitimate concern to the public. In most cases, only this information would be excepted from disclosure under section 552.101 in conjunction with common-law privacy. In this instance, however, the requestor knows the nature of the

incident in question as well as the identity of the individual involved. Therefore, withholding only the nature of the incident would not preserve the individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, we find that the submitted information in its entirety is generally subject to common-law privacy. We note, however, that the requestor may be the authorized representative of the individual whose privacy rights are implicated. We must therefore rule conditionally. If the requestor is not the authorized representative of the named individual, then the department must withhold the submitted report in its entirety pursuant to section 552.101 in conjunction with common-law privacy. If the requestor is the authorized representative of the named individual, she has a right of access to the submitted report under section 552.023 of the Government Code, and the information may not be withheld pursuant to common-law privacy. *See Gov't Code § 552.023(a)* (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself).

In summary, if the requestor is not the authorized representative of the named individual listed in the submitted reports, the department must withhold the submitted reports in their entirety under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is the individuals's authorized representative, then the submitted information must be released to this requestor.

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,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/agn

Ref: ID # 425200

Enc. Submitted documents

c: Requestor
(w/o enclosures)