



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2011

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

OR2011-17634

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# 439283 (Plano ORR# BECH092211).

The Plano Police Department (the "department") received a request for the police records of two named individuals and the calls of service for a specified address since 2004. You state the department has released some information to the requestor. You claim 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 is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate 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 demonstrated. *See id.* at 681-82. A compilation of an individual's criminal history record information 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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request requires the department to compile unspecified law enforcement records concerning the named individuals, thus implicating 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 generally withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.

We understand the requestor to contend she has a right of access to information pertaining to the named individuals that would otherwise be protected under common-law privacy. The requestor, in this instance, is from the Court Appointed Special Advocates of Collin County, Inc. ("CASA"). The requestor provided a court order with her request. We note, however, the submitted court order does not give CASA, as guardian ad litem, a right of access to unspecified law enforcement records concerning the named individuals. The order appointing CASA as guardian ad litem provides that the Texas Department of Family and Protective Services Child Protective Services Division (the "DFPS") "is ORDERED to release copies of the children's information" to CASA, orders the District Clerk of Collin County, Texas (the "district clerk") "to release copies of the business records and reports" to CASA, and also gives CASA access from any agency "to any protected health information concerning the . . . children or the managing conservator or guardian of said child(ren)." The requested information is not held by DFPS or the district clerk nor does it contain any protected health information. Accordingly, 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 any 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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kirsten Brew".

Kirsten Brew
Assistant Attorney General
Open Records Division

KB/ag

Ref: ID# 439283

Enc. Submitted documents

c: Requestor
(w/o enclosures)