



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 7, 2012

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

OR2012-14157

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# 465147 (ORR# JABJ061912).

The Plano Police Department (the "department") received a request for all information pertaining to three named individuals, including the requestor. You state the department has released some of the requested information. You claim the submitted 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.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses 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 satisfied. *Id.* at 681-82. This office has found 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. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history).

Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request seeks all reports pertaining to three named individuals. This request requires the department to compile the named individuals' criminal histories and implicates the named individuals' rights to privacy. However, as noted above, the requestor is one of the individuals whose privacy interest is at issue. *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 that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the requestor has a right of access to information pertaining to himself that would otherwise be confidential under common-law privacy. Therefore, to the extent the department maintains law enforcement records listing either of the other two named individuals 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. In this instance, you have submitted information that lists only the requestor as a suspect. This information may not be withheld from this requestor under section 552.101 of the Government Code on that basis. Accordingly, we will address the applicability of section 552.108 of the Government Code to this information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue relates to a closed investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we agree the department may withhold the information you marked under section 552.108(a)(2) of the Government Code.

In summary, to the extent the department maintains law enforcement records listing either of the two named individuals who are not 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. The department may withhold the information you marked under section 552.108(a)(2) of the Government Code. The remaining information must be released.¹

¹We note the information being released in this instance includes information that may be confidential with respect to the general public. *See* Gov't Code § 552.023(a); ORD 481 at 4. Therefore, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/bs

Ref: ID# 465147

Enc. Submitted documents

c: Requestor
(w/o enclosures)