



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 10, 2015

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

OR2015-16453

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# 575102 (Plano Tracking No. RUSZ051815).

The Plano Police Department (the "department") received a request for all calls and reports pertaining to a specified address. You state the department has released some information to the requestor. You claim portions of the submitted information are 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 "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or

embarrassing. See Open Records Decision No. 455 (1987). This office has also concluded 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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Upon review, we find you have not demonstrated some of the information at issue, which we have marked for release, is highly intimate and embarrassing and of no legitimate public interest; thus, the department may not withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information you have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*.

In this instance, however, the submitted information reflects the requestor is the spouse of the individual whose privacy interests are at issue. Thus, the requestor may be the authorized representative of the individual, and may have a right of access to information pertaining to the individual that would otherwise be confidential under common-law privacy. Section 552.023(a) states "a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023; see Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, if the requestor is acting as the authorized representative of the individual whose information you have marked, then the department may not withhold any portion of the marked information from this requestor under section 552.101 in conjunction with common-law privacy. If the requestor is not acting as the authorized representative of the individual, then, except for the information we have marked for release, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. In either instance, 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Seidlits", with a long horizontal flourish extending to the right.

Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 575102

Enc. Submitted documents

c: Requestor
(w/o enclosures)