



October 14, 1999

Ms. Katherine Cary  
Assistant Attorney General  
Public Information Coordinator  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR99-2935

Dear Ms. Cary:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 127301.

The Office of the Attorney General (the "OAG") received a request for a copy of the OAG database of all payments made to crime victims, including the victims' names and addresses. You state that you have released most of the responsive information, including the name, city, state, compensation paid, description of the offense involved, and police department involved for each requested crime victim. However, you seek to withhold the victims' street addresses under sections 552.101, 552.108, and 552.117 of the Government Code. You have submitted a representative sample of the information at issue.<sup>1</sup>

Initially, you claim that the victims' street addresses are protected by constitutional and common-law privacy. Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and it is of no

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information from that submitted to this office.

legitimate concern to the public. *Id.* at 683-85.

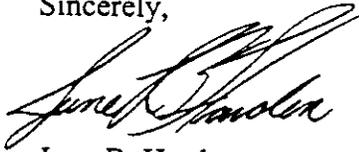
Section 552.101 also embraces constitutional privacy. *See Industrial Found.*, 540 S.W.2d at 678. The constitutional right to privacy consists of two related interests: 1) the individual interest in independence in making certain kinds of important decisions, and 2) the individual interest in independence in avoiding disclosure of personal matters. The first interest applies to the traditional "zones of privacy" described by the United States Supreme Court in *Roe v. Wade*, 410 U.S. 113 (1973), and *Paul v. Davis*, 424 U.S. 693 (1976). These "zones" include matters related to marriage, procreation, contraception, family relationships, and child rearing and education.

The second interest, in nondisclosure or confidentiality, may be somewhat broader than the first. The test for constitutional privacy involves a *balancing* of the individual's privacy interests against the public's need to know information of public concern. *See generally Ramie v. City of Hedwig Village*, 765 F.2d 490 (5th Cir. 1985).

We acknowledge that there is generally a legitimate public interest in information as to applicants for or recipients of public funds. *See generally* Open Records Decision No. 600 (1992). In this instance, however, you contend that the release of the victims' street addresses would compromise the victims' safety. You also contend that the legitimate public interest in the identities of Crime Victims' Compensation Fund applicants is sufficiently served by the release of the victims' names, cities, and states. *See generally Morales v. Ellen*, 840 S.W.2d 519, 526 (Tex. App.--El Paso 1992, writ denied). We have reviewed your arguments and agree that, in this instance, the public's interest is served by the release of the victims' names, cities, and states. Therefore, the street addresses of Crime Victims' Compensation Fund applicants maintained in the OAG's Crime Victims' Compensation Fund database are protected by constitutional privacy, and must not be released. *See generally* Tex. Const. art. I, § 30(a) (crime victim has right to be treated with respect in order to protect the victim's dignity and privacy); Attorney General Opinion JM-81 (1983) (names of parents of SIDS victims protected by right of privacy).

Because we are able to make a determination under section 552.101, we need not address your additional arguments against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is fluid and cursive, with the first name "June" being the most prominent.

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/sm

Ref: ID# 127301

Encl. Submitted documents

cc: Ms. Laura Lee Stapleton  
Jackson Walker, L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
(w/o enclosures)