



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2011

Mr. David Daugherty
Assistant County Attorney
Harris County Attorney
1310 Prairie, Suite 940
Houston, Texas 77002

OR2011-05374

Dear Mr. Daugherty:

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# 414702 (C.A. File No. 11PIA0042).

The Harris County Constable Precinct Four's Office (the "constable") received a request for the full incident report for a specified incident. You claim the submitted report is excepted from disclosure under sections 552.101, 552.130, and 552.147 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 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 if it (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). Generally, only the information that either identifies or tends to identify a victim of sexual assault or other serious sex-related offense may be withheld under common-law privacy. However, a governmental body is required to withhold an entire report when identifying information is inextricably intertwined with other releasable information or when the requestor knows the identity of the alleged victim. *See* Open Records Decision Nos. 393 (1983), 339 (1982); *see also* Open Records Decision No. 440 (1986) (detailed description of serious sexual offenses must be withheld). In this instance,

the report relates to an alleged sexual assault. You argue the entire report must be withheld because the victim's identifying information is inextricably intertwined with the other releasable information. However, based on our review, we find that withholding only the victim's identifying information will protect the victim's common-law right to privacy in this case. Therefore, the constable may not withhold the entire report based on common-law privacy. Consequently, we have marked the portions of the report which identify or tend to identify a victim of sexual assault that must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

This office has also found that 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). Moreover, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. We have marked the information that reveals a criminal history compilation. Therefore, the constable must withhold this information under section 552.101 of the Government Code under common-law privacy.

You raise section 552.130 of the Government Code for portions of the remaining information. This section excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. Gov't Code § 552.130(a)(1), (2). Therefore, the constable must withhold the marked Texas driver's license number under section 552.130.

Lastly, you raise section 552.147 of the Government Code for the remaining social security number. This section provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147. Accordingly, the constable may withhold the marked social security number pursuant to section 552.147. As you raise no other exceptions to disclosure for the report, the remaining information must be released.

In summary, the constable must withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy. The marked driver's license number must be withheld under section 552.130 of the Government Code. The marked social security number may be withheld under section 552.147 of the Government Code. The remaining information must be released.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bs

Ref: ID# 414702

Enc. Submitted documents

c: Requestor
(w/o enclosures)