



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 20, 2014

June B. Harden  
Assistant Attorney General  
Assistant Public Information Coordinator  
Public Information Coordinator's Office  
General Counsel Division  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2014-18812

Dear Ms. Harden:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. This request was originally received by the Open Records Division ("ORD") of this office and assigned ID #539915 (PIR No. 14-39400). Preparation of the ruling has been assigned to the Opinion Committee.

The Office of the Attorney General (the "OAG") received a public information act request for "the request that was submitted to the governmental body by the member of the public and the request for the ruling that the governmental body requested" from the OAG in relation to the following open records rulings: OR2014-04397, OR2014-03900, OR2014-03352, OR2014-10100, OR2014-05683, OR2014-04320, OR2014-04139, OR2012-03179, OR2010-05080, OR2010-00042, OR2010-08871, OR2010-05182, OR2010-05733, and OR2009-05842. You indicate that the OAG will release most of the responsive information with redactions that are allowed by law. You state that the remainder of the responsive information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you have submitted as Exhibit B.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." TEX.

GOV'T CODE ANN. § 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. *See id.* at 683–85. Previous open records rulings have determined that a compilation of a person's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *See, e.g.*, Tex. Att'y Gen. OR2014-01074, at 1; *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764–65 (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, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Tex. Att'y Gen. OR2014-01074, at 2. The responsive documents to the present request include a governmental body's compilation of certain individuals' criminal history. The release of this information implicates these individuals' right to privacy. Therefore, the OAG must withhold this information under section 552.101 in conjunction with common-law privacy.

The types of information considered intimate and embarrassing by the Texas Supreme Court include information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, extramarital children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See Indus. Found.*, 540 S.W.2d at 683. Previous open records decisions have concluded that information that either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy. *See Tex. Att'y Gen. ORD-393* (1983) at 2, *ORD-339* (1982) at 2. The responsive documents include information related to the identity of victims of alleged sexual assaults. This information is highly intimate and embarrassing and not of legitimate public concern and thus satisfies the standards articulated in *Industrial Foundation*. Therefore, the OAG must withhold the identifying information of the alleged victims 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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 cursive script that reads "Charlotte M. Harper".

Charlotte M. Harper  
Assistant Attorney General  
Opinion Committee

CMH/sdk

Ref: ID# 539915

Enc. Submitted documents

c: Requestor  
(w/o enclosures)