



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 7, 2017

Ms. Kristen Lee  
Assistant County Attorney  
County of Harris  
1019 Congress, 15th Floor  
Houston, Texas 77002

OR2017-12512

Dear Ms. Lee:

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# 661030.

The Harris County Constable, Precinct Five (the "constable's office") received a request for call for service reports at a specified address involving a named individual over a specified time period. You claim the submitted information is 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 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, in part, requires the constable's office to compile unspecified law enforcement records concerning the named individual. We find this request for unspecified law enforcement records implicates the named individual's right to privacy. Thus, to the extent the constable's office maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the constable's office must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. However, information that refers to an individual solely as a victim, witness, or involved person is not a compilation of the individual's criminal history and may not be withheld under section 552.101 on that basis. We note you have submitted information that does not list the named individual as a suspect, arrestee, or criminal defendant. This information does not consist of a compilation of the named individual's criminal history, and it may not be withheld under section 552.101 of the Government Code on that basis. Accordingly, we will address your remaining arguments against disclosure of this information.

You claim the information at issue is protected under common-law privacy. As noted above, types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Indus. Found.*, 540 S.W.2d at 685. This office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987).

Upon review, we agree the remaining information contains information that satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, the entire report must be withheld to protect the individual's privacy. In this instance, withholding only the individual's identity or certain details of the report from this requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the constable's office must withhold the reports we have marked in their entireties under section 552.101 of the Government Code in conjunction with common-law privacy. Further, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the constable's office must withhold the information we have marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated any of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, the constable's office may not withhold any portion

of the remaining information under section 552.101 in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.118 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 3.3 million and makes confidential the originating telephone numbers and addresses of 9-1-1 callers provided by a service supplier. *See* Health & Safety Code §§ 772.104, .118; *see also* Open Records Decision No. 649 at 2 (1996). You state the constable's office is part of an emergency communication district subject to section 772.118 of the Health and Safety Code. You state the remaining information includes originating telephone numbers and addresses provided by a 9-1-1 service supplier. Thus, to the extent the remaining information consists of the originating telephone numbers or addresses of 9-1-1 callers that were furnished by a 9-1-1 service supplier, the constable's office must withhold those telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. However, to the extent the remaining information does not consist of the originating telephone numbers or addresses of 9-1-1 callers that were furnished by a 9-1-1 service supplier, the constable's office may not withhold the remaining information under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code.


In summary, to the extent the constable's office maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the constable's office must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The constable's office must withhold the information we have marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the remaining information at issue consists of the originating telephone numbers or addresses of 9-1-1 callers that were furnished by a 9-1-1 service supplier, the constable's office must withhold those telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. The constable's office 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,



Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/bw

Ref: ID# 661030

Enc. Submitted documents

c: Requestor  
(w/o enclosures)