



February 9, 2015

Mr. Vance Hinds
Assistant Ellis County & District Attorney
County of Ellis
Ellis County Sheriff's Office
109 South Jackson
Waxahachie, Texas 75165

OR2015-02488

Dear Mr. Hinds:

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# 552936.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for all records pertaining to five named individuals. You state the sheriff's office redacted information pursuant to section 552.130(c) of the Government Code and section 552.147(b) of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

²Although you also raise sections 552.103 and 552.108 of the Government Code, you have not provided any argument to support these exceptions. Therefore, we do not address sections 552.103 and 552.108. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

We note the information we have marked is not responsive to the instant request for information because it does not pertain to any of the named individuals. This ruling does not address the public availability of non-responsive information, and the sheriff's office is not required to release non-responsive information in response to this request.

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 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). Further, 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.

You assert the present request requires the sheriff's office to compile unspecified law enforcement records concerning the named individuals. We note, however, the reports at issue do not list the named individuals as suspects, arrestees, or criminal defendants. This information is not part of a criminal history compilation and, thus, does not implicate these individuals' right to privacy. Thus, the information at issue may not be withheld under section 552.101 in conjunction with common-law privacy as a criminal history compilation. We find portions of the responsive information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. We note, however, the requestor is a social worker, who has provided a valid signed authorization form from one of the individuals whose information is at issue. Therefore, the requestor is acting as the authorized representative of this named individual and has a right of access to otherwise private information pertaining to this named individual pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, the sheriff's office may not withhold any of the information pertaining to this individual under section 552.101 of the Government Code on the basis of common-law privacy. However, the sheriff's office must withhold the information we have marked pertaining to another named individual under section 552.101 of the Government Code in conjunction with common-law privacy.

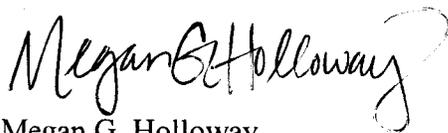
Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). The e-mail address at issue is not within the scope of section 552.137(c). Accordingly, the sheriff’s office must withhold the e-mail address you have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its release.

In summary, the sheriff’s office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff’s office must withhold the e-mail address you have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its release. The sheriff’s office must release the remaining responsive 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,



Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/cbz

Ref: ID# 552936

Enc. Submitted documents

c: Requestor
(w/o enclosures)

