



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 9, 2015

Ms. Sheila Swan
Administrative Assistant
Office of the Sheriff
County of Angelina
P.O. Box 114
Lufkin, Texas 75902-0114

OR2015-06851

Dear Ms. Swan:

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# 559423.

The Angelina County Sheriff's Office (the "sheriff's office") received two requests for information pertaining to a specified incident.¹ You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. You indicate the sheriff's office notified a third party of the request pursuant to section 552.304 of the Government Code.² See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses section 826.0211 of the Health and Safety Code, which provides, in part:

(a) Information contained in a rabies vaccination certificate or in any record compiled from the information contained in one or more certificates that

¹We note this office has combined these requests, which were originally assigned identification numbers 559423 and 559424, under identification number 559423.

²We note the third party notified by the sheriff's office is one of the requestors. As of the date of this letter, we have not received comments from this requestor.

identifies or tends to identify an owner or an address, telephone number, or other personally identifying information of an owner of a vaccinated animal is confidential and not subject to disclosure under Chapter 552, Government Code. The information contained in the certificate or record may not include the social security number or the driver's license number of the owner of the vaccinated animal.

Health & Safety Code § 826.0211(a). We note section 826.0211 is applicable only to information contained in a rabies vaccination certificate or in a record compiled from information contained in one or more rabies vaccination certificates. The submitted information includes a rabies vaccination certificate. Thus, the sheriff's office must withhold the owner's identifying information we have marked under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. However, we find the remaining information is not made confidential by section 826.0211, and the sheriff's office may not withhold it under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also 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). This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, 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.

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).³ *See* Gov't Code

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

§ 552.137(a)-(c). The e-mail address we have marked is not excluded by subsection (c), and you do not indicate the owner has consented to release of her e-mail address. Accordingly, the sheriff's office must withhold the e-mail address we have marked under section 552.137 of the Government Code.

In summary, the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code and common-law privacy. The sheriff's office must withhold the e-mail address we have marked under section 552.137 of the Government Code. The sheriff'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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 559423

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)