



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 22, 2015

Mr. Vance Hinds
Assistant County & District Attorney
Ellis County
109 South Jackson Street
Waxahachie, Texas 75165

OR2015-14879

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# 572451.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for all dispatch records, incident reports, and photographs related to a specified automotive accident. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you argue portions of the submitted information, which you have indicated, are not responsive to the instant request, because they do not concern the specified automotive accident. This ruling does not address the public availability of non-responsive information and the sheriff's office is not required to release such information in response to this request.

Section 552.101 of the Government Code excepts "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. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See, e.g.*, Open Records Decision Nos. 545 (1990) (common-law privacy protects mortgage payments, assets, bills, and credit history), 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 you have marked, along with the additional information we have marked, satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the sheriff's office must withhold the information you have marked, along with the additional information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.¹ Gov't Code § 552.1175(b). Section 552.1175 applies to peace officers, as defined by article 2.12 of the Code of Criminal Procedure, as well as state judges, as defined by section 13.0021 of the Election Code. *Id.* § 552.1175(a)(1), (10). Section 552.1175 also encompasses a personal cellular telephone, unless the cellular telephone service is paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988). Some of the remaining information pertains to individuals who may be subject to section 552.1175. Thus, to the extent the information we have indicated pertains to individuals subject to section 552.1175(a), and the individuals elect to restrict access to this information in accordance with section 552.1175(b), the sheriff's office must withhold the information we have indicated under section 552.1175 of the Government Code; however, the sheriff's office may only withhold the cellular telephone numbers we have indicated if the cellular telephone service is not paid for by a governmental body. If the individuals whose information we have indicated are not subject to section 552.1175(a) or no election is made, the sheriff's office may not withhold this information under section 552.1175 of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the sheriff's office must withhold the motor vehicle record information you have marked and indicated, along with the additional information we have marked, under section 552.130 of the Government Code.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

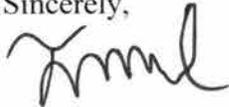
Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Upon review, we find the sheriff’s office must withhold the insurance policy numbers you have marked under section 552.136 of the Government Code.

In summary, the sheriff’s office must withhold the information you have marked, along with the additional information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the information we have indicated pertains to individuals subject to section 552.1175(a), and the individuals elect to restrict access to this information in accordance with section 552.1175(b), the sheriff’s office must withhold the information we have indicated under section 552.1175 of the Government Code; however, the sheriff’s office may only withhold the cellular telephone numbers we have indicated if the cellular telephone service is not paid for by a governmental body. The sheriff’s office must withhold the motor vehicle record information you have marked and indicated, along with the additional information we have marked, under section 552.130 of the Government Code and the insurance policy numbers you have marked under section 552.136 of the Government Code. 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,

A handwritten signature in black ink, appearing to read "Tim Neal", written in a cursive style.

Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 572451

Enc. Submitted documents

c: Requestor
(w/o enclosures)