



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 20, 2015

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

OR2015-24470

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# 587964.

The Ellis County Sheriff's Department (the "sheriff's department") received a request for information pertaining to a specified address on specified dates. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.138 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. Section 552.101 encompasses common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is 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). You assert the submitted information is excepted from disclosure under common-law privacy. Upon review, however,

we find you have failed to demonstrate the submitted information is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the sheriff's department may not withhold any portion of the submitted information under section 552.101 of the Government Code on the basis of common-law privacy.

Section 552.101 of the Government Code also encompasses the doctrine of constitutional privacy. Constitutional privacy consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently and (2) an individual's interest in avoiding disclosure of personal matters. *See Whalen v. Roe*, 429 U.S. 589, 599-600 (1977); ORD 455 at 4. The first type protects an individual's autonomy within "zones of privacy" which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. ORD 455 at 4. The second type of constitutional privacy requires a balancing between the individual's privacy interests and the public's need to know information of public concern. *Id.* The scope of information protected is narrower than that under the common law doctrine of privacy; the information must concern the "most intimate aspects of human affairs." *Id.* at 5 (citing *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)). Upon review of the submitted information, we find you have failed to demonstrate any portion of the submitted information falls within the zones of privacy or implicates an individual's privacy interests for purposes of constitutional privacy. Therefore, the sheriff's department may not withhold any portion of the submitted information under section 552.101 on the basis of constitutional privacy.

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. Upon review, we find no portion of the submitted information is subject to section 552.130 of the Government Code. Accordingly, the sheriff's department may not withhold any portion of the submitted information under section 552.130 of the Government Code.

The sheriff's department contends some of the information in Exhibit C is excepted under section 552.138 of the Government Code. Section 552.138 provides in relevant part:

(a) In this section:

- (1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.
- (2) "Sexual assault program" has the meaning assigned by Section 420.003.
- (3) "Victims of trafficking shelter center" means:

(A) a program that:

(i) is operated by a public or private nonprofit organization; and

(ii) provides comprehensive residential and nonresidential services to persons who are victims of trafficking under Section 20A.02, Penal Code; or

(B) a child-placing agency, as defined by Section 42.002, Human Resources Code, that provides services to persons who are victims of trafficking under Section 20A.02, Penal Code.

(b) Information maintained by a family violence shelter center, victims of trafficking shelter center, or sexual assault program is excepted from [required public disclosure] if it is information that relates to:

(1) the home address, home telephone number, or social security number of an employee or a volunteer worker of a family violence shelter center, victims of trafficking shelter center, or sexual assault program, regardless of whether the employee or worker complies with Section 552.024;

(2) the location or physical layout of a family violence shelter center or victims of trafficking shelter center;

(3) the name, home address, home telephone number, or numeric identifier of a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program;

(4) the provision of services, including counseling and sheltering, to a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program[.]

Id. § 552.138(a), (b). Section 552.138 applies only to information maintained by a family violence shelter center, victims of trafficking shelter center, or sexual assault program. *See id.* § 552.138. We note the submitted information is maintained by the sheriff's department, and not by a family violence shelter center, victims of trafficking shelter center, or sexual assault program. Accordingly, we find the sheriff's department may not withhold any portion of the submitted information under section 552.138 of the Government Code. As no other exceptions to disclosure have been raised, the submitted information must be released.

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 that reads "Cole Hutchison". The signature is written in a cursive style with a large initial "C".

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 587964

Enc. Submitted documents

c: Requestor
(w/o enclosures)