



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 17, 2016

Ms. Diana Spiller  
Public Information Coordinator  
Texas Commission on Jail Standards  
P.O. Box 12985  
Austin, Texas 78711

OR2016-03823

Dear Ms. Spiller:

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# 598616.

The Texas Commission on Jail Standards (the "commission") received a request for multiple items regarding the Cameron County Jail. You state you will release some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.<sup>2</sup>

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 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

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<sup>1</sup>Although you do not raise section 552.137 in your brief, we understand you to raise this section based on your markings in the submitted information.

<sup>2</sup>We note the commission did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(e). Nevertheless, sections 552.101 and 552.137 of the Government Code are mandatory exceptions that can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the commission's arguments under those sections.

satisfied. *Id.* at 681-82. The types of information considered highly intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has concluded some kinds of medical information are highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information you have marked meets the standard articulated in *Industrial Foundation*. Accordingly, the commission must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

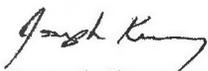
Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically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

In summary, the commission must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The commission must withhold the personal e-mail address you have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. The commission 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](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,



Joseph Keeney  
Assistant Attorney General  
Open Records Division

JDK/dls

Ref: ID# 598616

Enc. Submitted documents

c: Requestor  
(w/o enclosures)