



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 24, 2016

Ms. Danie Huffman
Public Information Officer
Parker County Sheriff's Office
129 Hogle Street
Weatherford, Texas 76086

OR2016-04417

Dear Ms. Huffman:

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# 605772.

The Parker County Sheriff's Office (the "sheriff's office") received a request for the visitation log for a named inmate. You indicate the sheriff's office need not comply with the request pursuant to section 552.028 of the Government Code. In the alternative, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides, in relevant part:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under [the Act].

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028(a)-(b). You assert the requestor made the present request for information on behalf of an inmate. You indicate the individual at issue is an inmate confined in a correctional facility, and you argue the requestor made the present request as a representative of this incarcerated individual. To support your argument, you state, and have provided documentation showing, the requestor is listed as the inmate's emergency contact with the correctional facility. However, the fact the requestor may have a close or friendly relationship with the inmate does not in itself establish she submitted the request as an agent of the inmate. As you have not provided any additional information establishing the requestor is in fact acting as an agent of the inmate, we cannot conclude section 552.028 is applicable in this instance. Accordingly, we will consider whether or not any of the submitted information is excepted from disclosure under the Act.

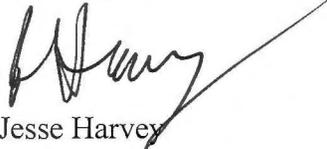
Section 552.101 also encompasses the doctrines of common-law and constitutional privacy. Constitutional privacy consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently and (2) an individual's interest in avoiding disclosure of personal matters. Open Records Decision No. 455 at 4 (1987). 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. *Id.* 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)). In Open Records Decision No. 430 (1985), our office determined a list of inmate visitors is protected by constitutional privacy because people have a First Amendment right to correspond with inmates, and that right would be threatened if their names were released. *See also* Open Records Decision Nos. 428 (1985), 185 (1978) (public's right to obtain an inmate's correspondence list is not sufficient to overcome the First Amendment right of the inmate's correspondents to maintain communication with inmate free of the threat of public exposure). Upon review, we agree the sheriff's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with constitutional privacy.

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 'Jesse Harvey', with a long, sweeping horizontal stroke extending to the right.

Jesse Harvey
Assistant Attorney General
Open Records Division

JH/eb

Ref: ID# 605772

Enc. Submitted documents

c: Requestor
(w/o enclosures)