



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 10, 2015

Ms. Sheila Swan
Administrative Assistant
Records
Angeline County Sheriff's Office
P.O. Box 114
Lufkin, Texas 75902-0114

OR2015-11358

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# 567024.

The Angelina County Sheriff's Office (the "sheriff's office") received a request for information concerning the use of lethal force against canines. The sheriff's office released information responsive to the request but made redactions as permitted by section 552.024 of the Government Code without requesting a decision from this office. Gov't Code § 552.024(c)(2). Pursuant to section 552.024(c-1), the requestor asked this office to review the information and render a decision as to whether it is excepted from disclosure under section 552.117 of the Government Code. You state the sheriff's office now acknowledges the assertion of section 552.117 was incorrect and now states the redactions were made under section 552.101 of the Government Code. We have considered the position of the sheriff's office and reviewed the information.

Initially, we note the requestor seeks information relating to the use of lethal force. Case number 13-14519 does not involve the use of lethal force and is, therefore, not responsive to the request. Our ruling does not address the public availability of information that is not responsive to a request, and the sheriff's office is not required to release non-responsive information.

Section 552.101 of the Government Code excepts from public 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 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. *See id.* at 681–82. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find none of the information at issue is highly intimate or embarrassing. Accordingly, the sheriff’s office may not withhold the information at issue under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.1175 of the Government Code excepts from disclosure 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, in part, to “peace officers as defined by Article 2.12. Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). To the extent the individuals whose information we marked elect to restrict access to their information in accordance with section 552.1175(b), the sheriff’s office must withhold the information we marked under section 552.1175 of the Government Code. However, if no election is made, then the sheriff’s office may not withhold this information under section 552.1175 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country. *Id.* § 552.130(a)(1). Accordingly, the sheriff’s office must withhold the information we marked under section 552.130 of the Government Code.

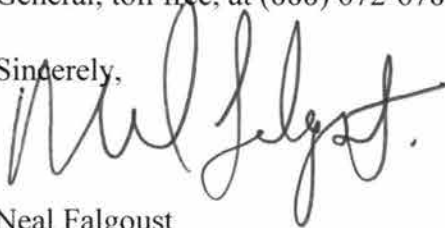
In summary, to the extent the individuals whose information we marked elect to restrict access to their information in accordance with section 552.1175(b), the sheriff’s office must withhold the information we marked under section 552.1175 of the Government Code. The sheriff’s office must withhold the information we marked under section 552.130 of the Government Code. The sheriff’s office must release the remaining information.

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470(1987). We note section 552.1175 is the correct exception to raise for a peace officer’s personal information not held in an employment context.

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 'Neal Falgoust', written over the word 'Sincerely,'.

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 567024

Enc. Submitted documents

c: Requestor
(w/o enclosures)