



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 19, 2019

Mr. Blake A. Watson  
Assistant County Attorney  
Fayette County  
151 North Washington Street  
La Grange, Texas 78945

OR2019-07674

Dear Mr. Watson:

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# 755554.

The Fayette County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. The sheriff's office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 of the Government Code encompasses section 571.015 of the Health and Safety Code, which provides in pertinent part, as follows:

(a) Each paper in a docket for mental health proceedings in the county clerk's office, including the docket book, indexes, and judgment books, is a public record of a private nature that may be used, inspected, or copied only under a written order issued by the county judge, a judge of a court that has probate jurisdiction, or a judge of a district court having jurisdiction in the county in which the docket is located.

Health & Safety Code § 571.015(a). Section 571.015 applies only to information in a county clerk's office. *See id.* The information at issue is maintained by the sheriff's office, not by a county clerk's office. Therefore, none of the submitted information is confidential under section 571.015 of the Health and Safety Code, and the sheriff's office may not withhold it

under section 552.101 on that basis. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality must be express, and confidentiality requirement will not be implied from statutory structure), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to the public).

Section 552.101 of the Government Code also encompasses section 576.005 of the Health and Safety Code, which makes confidential records of a mental health facility that directly or indirectly identify a present, former, or proposed patient unless disclosure is permitted by other state law. Health & Safety Code § 576.005. You also generally contend the submitted information is confidential under section 576.005. Upon review, we find you have failed to demonstrate any of the submitted information consists of records of a mental health facility. Therefore, none of the submitted information is confidential under section 576.005, and the sheriff's office may not withhold any of it under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also 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 or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. However, because "the right of privacy is purely personal," that right "terminates upon the death of the person whose privacy is invaded[.]" *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *see also Justice v. Belo Broad. Corp.*, 472 F. Supp. 145, 146-47 (N.D. Tex. 1979); *see* Attorney General Opinions JM-229 (1984) ("the right of privacy lapses upon death"), H-917 (1976) ("We are . . . of the opinion that the Texas courts would follow the almost uniform rule of other jurisdictions that the right of privacy lapses upon death."); Open Records Decision No. 272 (1981) (the right of privacy is personal and lapses upon death). Further, we note an individual's name, address, and telephone number are generally not private information under common-law privacy. *See* Open Records Decision No. 554 at 3 (1990) (disclosure of person's name, address, or telephone number not an invasion of privacy).

Upon review, we find you have failed to demonstrate any of the submitted information pertaining to living individuals is highly intimate or embarrassing and not of legitimate public concern. Therefore, the sheriff's office may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must release the submitted 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,

A handwritten signature in black ink, appearing to read "Michelle Garza", written over a circular stamp or seal.

Michelle Garza  
Assistant Attorney General  
Open Records Division

MG/gw

Ref: ID# 755554

Enc. Submitted documents

c: Requestor  
(w/o enclosures)