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ATTORNEY GENERAL OF TEXAS

May 2, 2022

Ms. Tiffany Bangs  
Assistant County Attorney  
Harris County Attorney's Office  
1019 Congress Street, 15th Floor  
Houston, Texas 77002-1700

OR2022-12343

Dear Ms. Bangs:

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# 945166 (22PIA0233, 22PIA0269, 22PIA0270, 22PIA0271, and 22PIA0272).

The Harris County Institute of Forensic Sciences (the "institute") received five requests from different requestors for information pertaining to certain deceased individuals. You state the institute has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the claimed exception and reviewed the submitted information.

Initially, we note some of the requests received by the institute differ in the types of information sought pertaining to the deceased individuals specified in the requests. Thus, the institute need not release information to any of the requestors that is not responsive to their respective requests.

Section 552.101 of the Government Code excepts "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

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<sup>1</sup> We note the institute failed to comply with section 552.301 of the Government Code in requesting a ruling with respect to the information responsive to some of the requests; however, section 552.101 of the Government Code can provide a compelling reason to withhold information sufficient to overcome the presumption of openness caused by a failure to comply with section 552.301. *See* Gov't Code §§ 552.301, .302. Accordingly, we will consider your arguments against disclosure of the information at issue.

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. 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 not demonstrated any portion of the information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the institute may not withhold any portion of the submitted information under section 552.101 of the Government Code in conjunction with 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. 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 (quoting *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)). Upon review, we find you have not demonstrated any portion of the information at issue falls within the zones of privacy or implicates an individual's privacy interests for purposes of constitutional privacy. Therefore, the institute may not withhold any portion of the submitted information under section 552.101 of the Government Code on the basis of constitutional privacy. Accordingly, the institute must release the responsive 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Deborah Southerland  
Assistant Attorney General  
Open Records Division

DS/jm

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Enc. Submitted documents

c: 3 Requestors  
(w/o enclosures)