



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 10, 2022

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

OR2022-13374

Dear Ms. Hodges:

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# 946575 (C.A. File No. 22PIA0278).

The Harris County Judge's Office (the "county") received a request for communications involving the county containing a specified keyword, communications involving a named individual involving two specified keywords, and communications involving two named individuals. You claim 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. This section encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is 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 established. *Id.* at 681-82. 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 the names, home addresses, and telephone numbers of members of the public are generally not highly intimate or embarrassing. See Open Records Decision Nos. 551 at 3 (1990) (disclosure of person's name, address, or telephone number not invasion of privacy), 455 at 7 (1987) (home addresses and telephone

numbers not protected under privacy). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the information must be withheld in its entirety to protect the individual's privacy.

In this instance, you seek to withhold the entirety of the submitted information under section 552.101 in conjunction with common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the information at issue must be withheld on the basis of common-law privacy. Accordingly, the county may not withhold the entirety of the submitted information under section 552.101 of the Government Code on that basis. Furthermore, we find no portion of the submitted information is highly intimate or embarrassing and of no legitimate public interest. Thus, the county may not withhold any portion of the submitted information under section 552.101 of the Government Code on the basis of common-law privacy.

Section 552.1175 of the Government Code protects 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. Section 552.1175 applies, in part, to "current or honorably retired peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *See id.* § 552.1175(a)(1); *see also id.* § 552.003(1-b) (defining "honorably retired" for purposes of the Act). We note, for purposes of section 552.1175, "family member" means a spouse, minor child, or adult child who resides in the person's home. *Cf. id.* § 552.117(c) (providing that "family member" has meaning assigned by Fin. Code § 31.006(d)). We also note section 552.1175 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See Open Records Decision No. 506 at 5-6 (1988)* (section 552.1175 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Accordingly, to the extent the information we have marked pertains to individuals who are subject to section 552.1175(a) of the Government Code and who elect to restrict access to their information in accordance with section 552.1175(b) of the Government Code, the county must withhold the information we have marked under section 552.1175 of the Government Code; however, the marked telephone numbers at issue may be withheld only if a governmental body does not pay for the telephone service. Conversely, if the individuals whose information is at issue are not subject to section 552.1175(a) or do not elect to restrict access to their information in accordance with section 552.1175(b), then the information at issue may not be withheld under section 552.1175 of the Government Code.

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

¹ The 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).*

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). *See* Gov’t Code § 552.137(a)-(c). The e-mail address at issue does not appear to be the type specifically excluded by subsection (c). Upon review, we find the county must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.

In summary, to the extent the information we have marked pertains to individuals who are subject to section 552.1175(a) of the Government Code and who elect to restrict access to their information in accordance with section 552.1175(b) of the Government Code, the county must withhold the information we have marked under section 552.1175 of the Government Code; however, the marked telephone numbers at issue may be withheld only if a governmental body does not pay for the telephone service. The county must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. The county 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 <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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/be

Ref: ID# 946575

Enc. Submitted documents

c: Requestor
(w/o enclosures)