



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 31, 2011

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2011-15878

Dear Ms. Lentz:

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# 434923.

The Williamson County Sheriff's Office (the "sheriff") received a request for records related to three collect calls placed by the requestor during his incarceration at a Williamson County jail. You claim the submitted information is excepted from disclosure pursuant to 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 encompasses the doctrine of constitutional privacy. The constitutional right to privacy protects two types of interests. *See* Open Records Decision No. 600 at 4 (1992) (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490 (5th Cir. 1985)). The first is the interest in independence in making certain important decisions related to the "zones of privacy" recognized by the United States Supreme Court. *Id.* The zones of privacy recognized by the United States Supreme Court are matters pertaining to marriage, procreation, contraception, family relationships, and child rearing and education. *See id.*

The second interest is the interest in avoiding disclosure of personal matters. The test for whether information may be publicly disclosed without violating constitutional privacy rights involves a balancing of the individual's privacy interests against the public's need to know information of public concern. *See* Open Records Decision No. 455 at 5-7 (1987) (citing *Fadjo v. Coon*, 633 F.2d 1172, 1176 (5th Cir. 1981)). The scope of information considered private under the constitutional privacy doctrine is far narrower than that under the common-law right to privacy; the material must concern the "most intimate aspects of human affairs." *See id.* at 5 (citing *Ramie*, 765 F.2d at 492).

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). We have determined the same principles apply to an inmate's recorded conversations from a telephone at a jail. In this instance, you assert the submitted audio recordings are subject to constitutional privacy. Based on your argument and our review, we agree the submitted audio recording of the inmate's telephone conversation, which we have marked, is protected by constitutional privacy and must be withheld under section 552.101 of the Government Code.<sup>1</sup> However, the remaining audio recording is of the inmate's attempt to make a telephone call, but not of the inmate's telephone conversation. We note the individual the inmate was calling is not identified. The remaining recording is not protected by constitutional privacy and may not be withheld under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the remaining recording must be released.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>1</sup>We note although the requestor is the inmate in the recordings, the requestor does not have a right of access to this information under section 552.023 of the Government Code because the constitutional privacy right of the other party to the telephone conversation is also implicated. Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests).

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer Burnett".

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 434923

Enc. Submitted documents

c: Requestor  
(w/o enclosures)