



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 9, 2011

Ms. Susan Fillion
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2011-16517

Dear Ms. Fillion:

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# 435694.

The Harris County Sheriff's Office (the "sheriff") received a request for the personnel file, disciplinary records, employment termination records, IAD/OIG investigation records, and any allegations and complaints made against a named Harris County Sheriff's Office employee. You state that some of the requested information has been released to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, 552.1175, 552.119, 552.130, 552.136, 552.137, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

We first note that two of the submitted discs are corrupt and cannot be viewed by this office. As this office cannot review the corrupt discs, we conclude that you have failed to comply with the requirements of section 552.301 of the Government Code with respect to that information. *See* Gov't Code § 552.301(e)(1)(D). Under section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the presumption that the information is public and must be released, unless there is a compelling reason to withhold the information. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). Generally, a compelling reason to withhold information exists when the information is confidential by law or third party interests are at stake. *See* Open Records Decision

¹Although you initially raised section 552.103 of the Government Code, you have not submitted any arguments explaining how this exception applies to the submitted information. Therefore, we assume you have withdrawn this exception. *See* Gov't Code §§ 552.301, .302.

Nos. 630 at 3 (1994), 325 at 2 (1982). Because this office is unable to review the corrupt discs, we have no basis to conclude that the information is confidential by law. Therefore, we have no choice but to order the sheriff to release that information. However, we note this office issued Open Records Decision No. 670 (2001) authorizing all governmental bodies to withhold the current and former home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision. *See* ORD 670 at 6-7. Accordingly, to the extent the discs at issue contain references to family member or other personal information of a peace officer, the sheriff is authorized to withhold such information under section 552.117(a)(2) of the Government Code in conjunction with the previous determination in ORD 670. This office also issued a previous determination in Open Records Decision No. 684 (2009) authorizing all governmental bodies to withhold ten other categories of information without requesting an attorney general decision under the Act. *See* ORD 684 at 14-15. Accordingly, to the extent the discs at issue contain any of the ten categories of information listed in Open Records Decision No. 684, the sheriff is authorized to withhold such information.² If you maintain a legible or audible copy of the information on the discs and believe that any other information contained therein is confidential and may not lawfully be released, then you must challenge this ruling in court as outlined below pursuant to section 552.324 of the Government Code.

Next, we note the submitted information contains a ST-3 crash report. Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”³ Gov’t Code § 552.101. Section 552.101 encompasses information that other statutes make confidential, such as

²Among the ten categories of information governmental bodies are authorized to withhold without the necessity of requesting an attorney general opinion are Texas driver’s license and license plate numbers under section 552.130 of the Government Code and credit card, debit card, charge card, insurance policy, bank account, and bank routing numbers under section 552.136 of the Government Code. However, on September 1, 2011, the Texas legislature amended sections 552.130 and 552.136 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) and subsection 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov’t Code § 552.130(c)); Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 27 (to be codified at Gov’t Code § 552.136(c)). If a governmental body redacts information described in subsections 552.130(a)(1) and (a)(3), it must notify the requestor in accordance with section 552.130(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov’t Code § 552.130(d), (e)). In addition, if a governmental body redacts information described in subsection 552.136(b), it must notify the requestor in accordance with section 552.136(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 27 (to be codified at Gov’t Code § 552.136(d), (e)). Thus, the statutory amendments to sections 552.130 and 552.136 of the Government Code supercede Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.130(a)(1), 552.130(a)(3), and 552.136(b) in accordance with sections 552.130 and 552.136, not Open Records Decision No. 684.

³The Office of the Attorney General will raise a mandatory exception like section 552.101 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

section 550.065(b) of the Transportation Code. Section 550.065(b) states that except as provided by subsection (c) or (e), accident reports are privileged and for the confidential use of certain specified entities. Transp. Code § 550.065(b). The submitted ST-3 crash report was completed pursuant to chapter 550 of the Transportation Code. *See id.* § 550.064 (officer's accident report). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, a governmental entity is required to release a copy of an accident report to a person who provides two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has not provided the requisite information for the ST-3 crash report. Accordingly, the sheriff must withhold the ST-3 crash report we have marked pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Next, we address your claim under section 552.108(b)(2) of the Government Code, which provides in pertinent part:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(b)(2). Section 552.108(b)(2) applies only to information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. As previously noted, a governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Furthermore, section 552.108 is generally not applicable to information relating to an administrative investigation that did not result in a criminal investigation or prosecution. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). The submitted information relates to an internal affairs investigation concerning the named officer. You have not explained, nor are we able to determine, how the internal affairs investigation resulted in a criminal investigation or prosecution. Therefore, we find you have failed to demonstrate the applicability of section 552.108(b)(2) to this investigation. Accordingly, the sheriff may not withhold any of the internal affairs investigation documents under section 552.108(b)(2) of the Government Code.

Section 552.101 of the Government Code encompasses laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center (the “NCIC”) or by the Texas Crime Information Center (the “TCIC”) is confidential under federal and state law. CHRI means “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” Gov’t Code § 411.082(2). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI obtained from the NCIC network or other states. *See* 28 C.F.R. § 20.21. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 7 (1990); *see generally* Gov’t Code ch. 411 subch. F. Section 411.083 of the Government Code deems confidential CHRI the Texas Department of Public Safety (“DPS”) maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. However, section 411.083 does not apply to active warrant information or other information relating to one’s current involvement with the criminal justice system. *See id.* § 411.081(b) (police department allowed to disclose information pertaining to person’s current involvement in the criminal justice system). We also note that the term CHRI does not include driving record information. *See id.* § 411.082(2)(B). Upon our review, we find the sheriff must withhold the CHRI we have marked under section 552.101 in conjunction with federal law and chapter 411 of the Government Code. However, we find none of the remaining information constitutes CHRI, therefore the sheriff may not withhold any of the remaining information on this basis.

Section 552.101 of the Government Code also encompasses the common-law right of privacy, which protects information if it (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 satisfied. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Whether information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983).

This office has found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs,

illnesses, operations, and physical handicaps) and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouses files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. This office has also found that financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy, but that there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 545 at 4 (1990) (attorney general has found kinds of financial information not excepted from public disclosure by common-law privacy to generally be those regarding receipt of governmental funds or debts owed to governmental entities), 523 (1989) (information related to an individual's mortgage payments, assets, bills, and credit history is excepted from disclosure under the common law right to privacy). Upon review, we find that the information we have marked is confidential under common-law privacy and must be withheld under section 552.101 of the Government Code on that basis.

Section 552.101 also encompasses section 411.192 of the Government Code. Section 411.192 governs the release of all information maintained by DPS concerning the licensure of individuals to carry concealed handguns, and provides:

(a) [DPS] shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, zip code, telephone number, e-mail address, and Internet website address. Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552.

(b) An applicant or license holder may be furnished a copy of disclosable records regarding the applicant or license holder on request and the payment of a reasonable fee.

Gov't Code § 411.192(a), (b). We note a portion of the remaining information pertains to a concealed handgun license that appears to have been received by the sheriff from DPS. In this instance, the requestor is not a criminal justice agency, nor is the requestor the license holder whose information is at issue. Further, we note that section 411.193 is not applicable in this instance. *See id.* § 411.193 (making a statistical report including the number of licenses issued, denied, revoked, or suspended by the department during the preceding month

available to the public). Therefore, the sheriff must withhold the information we have marked under section 552.101 in conjunction with section 411.192 of the Government Code.

Section 552.101 also encompasses section 560.003 of the Government Code, which provides, "A biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." Gov't Code § 560.003; *see also id.* §§ 560.001 (defining "biometric identifier" to include fingerprints), .002 (governmental body may not sell, lease, or otherwise disclose individual's biometric identifier to another person unless individual consents to disclosure). Therefore, the sheriff must withhold the fingerprints we have marked under section 552.101 in conjunction with section 560.003 of the Government Code.

Section 552.101 also encompasses section 1701.454 of the Occupations Code, which governs the public availability of information submitted to the Texas Commission on Law Enforcement Officer Standards and Education ("TCLEOSE") under subchapter J of chapter 1701 of the Occupations Code. Section 1701.454 provides as follows:

(a) All information submitted to [TCLEOSE] under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code, unless the person resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses.

(b) Except as provided by this subchapter, a [TCLEOSE] member or other person may not release information submitted under this subchapter.

Act of May 23, 2011, 82nd Leg., R.S., S.B. 545, § 4 (to be codified as an amendment to Occ. Code § 1701.454). The submitted information includes information that was submitted to TCLEOSE pursuant to subchapter J of chapter 1701 of the Occupations Code. Furthermore, the information at issue does not indicate the named officer resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses. Therefore, the sheriff must withhold the information we have marked under section 552.101 in conjunction with section 1701.454 of the Occupations Code.

Section 552.101 also encompasses section 1703.306 of the Occupations Code, which provides the following:

(a) A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the person that requested the examination;

(3) a member, or the member's agent, of a governmental agency that licenses a polygraph examiner or supervises or controls a polygraph examiner's activities;

(4) another polygraph examiner in private consultation; or

(5) any other person required by due process of law.

(b) The [Texas Department of Licensing and Regulation] or any other governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information.

(c) A polygraph examiner to whom information acquired from a polygraph examination is disclosed under Subsection (a)(4) may not disclose the information except as provided by this section.

Occ. Code § 1703.306. The submitted information contains polygraph information that is confidential under section 1703.306, and the requestor does not appear to have a right of access to the information under that section. Accordingly, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code.

Section 552.101 of the Government Code also encompasses section 6103(a) of title 26 of the United States Code. Section 6103(a) renders tax return information confidential. Attorney General Opinion H-1274 (1978) (tax returns); Open Records Decision No. 600 (1992) (W-4 forms). Section 6103(b) defines the term "return information" as "a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments . . . or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary [of the Internal Revenue Service] with respect to a return or with respect to the determination of the existence, or possible existence, of liability . . . for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense[.]" 26 U.S.C. § 6103(b)(2)(A). Federal courts have construed the term "return information" expansively to include any information gathered by the Internal Revenue Service regarding a taxpayer's liability under title 26 of the United States Code. *See Mallas v. Kolak*, 721 F. Supp. 748, 754 (M.D.N.C. 1989), *dismissed in part, aff'd in part, vacated in part, and remanded*, 993 F.2d 1111 (4th Cir. 1993). Accordingly, the sheriff must withhold the W-4 form we have marked pursuant to section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code.

Next, we note portions of the remaining information are excepted from disclosure under section 552.102 of the Government Code. Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). We note the privacy analysis under section 552.102(a) is the same as the common-law privacy test under

section 552.101, which is discussed above. *See Indus. Found.*, 540 S.W.2d at 685. In *Hubert v. Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546, 549-51 (Tex. App.—Austin 1983, writ ref'd n.r.e.), the court ruled the privacy test under section 552.102(a) is the same as the *Industrial Foundation* privacy test. However, the Texas Supreme Court recently expressly disagreed with *Hubert's* interpretation of section 552.102(a) and held its privacy standard differs from the *Industrial Foundation* test under section 552.101. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, No. 08-0172, 2010 WL 4910163, at *5 (Tex. Dec. 3, 2010). The supreme court then considered the applicability of section 552.102 and held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Id.* at *10. Having carefully reviewed the information at issue, the sheriff must withhold the information we have marked under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer complies with sections 552.024 or 552.1175 of the Government Code. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)). Section 552.117(a)(2) adopts the definition of peace officer found at article 2.12 of the Code of Criminal Procedure. Section 552.117(a)(2) protects a peace officer's personal cellular telephone number if the officer pays for the cellular telephone with his personal funds. Open Records Decision No. 670 at 6 (2001); *cf.* ORD 506. Accordingly, the sheriff must withhold the officer's personal information we have marked in the submitted documents, and indicated on the submitted audio recordings, under section 552.117(a)(2) of the Government Code. The sheriff must withhold the marked cellular telephone number of the officer only if the officer pays for the cellular telephone with personal funds.⁴

You assert the photographs in the remaining information are excepted from disclosure under section 552.119 of the Government Code, which provides the following:

(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from [required public disclosure] unless:

- (1) the officer is under indictment or charged with an offense by information;
- (2) the officer is a party in a civil service hearing or a case in arbitration; or

⁴As we are able to make this determination, we need not address your argument for this information under section 552.1175.

(3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

Gov't Code § 552.119. Under section 552.119, a governmental body must demonstrate, if the information does not demonstrate on its face, that release of the photograph would endanger the life or physical safety of a peace officer. Upon review, we have determined that release of the photographs we have marked would endanger the life or physical safety of the officer. Therefore, the sheriff must withhold the marked photographs under section 552.119 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 or a motor vehicle title or registration issued by an agency of this state or another state or country. *See* Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)). We have marked certain motor vehicle record information. The sheriff must withhold this marked information under section 552.130 of the Government Code.

Portions of the remaining information contain bank account and bank routing numbers. Section 552.136 of the Government Code provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. We conclude the bank account and bank routing numbers we have marked constitute access device numbers for purposes of section 552.136. Thus, the sheriff must withhold the marked information under section 552.136 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 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 addresses at issue are not excluded by subsection (c). Therefore, the sheriff must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure.

We note the remaining information contains a DD-214 form. Section 552.140 of the Government Code provides a military veteran's DD-214 form or other military discharge record that is first recorded with, or that otherwise first comes into the possession of, a governmental body on or after September 1, 2003, is confidential for a period of seventy-five years and may only be disclosed in accordance with section 552.140 or in accordance with a court order. *See id.* § 552.140(a), (b). We have marked the DD-214 form at issue. You do not inform us when the sheriff came into possession of this form. Therefore, if the sheriff came into possession of the form we marked on or after September 1, 2003, the sheriff must withhold it under section 552.140 of the Government Code. If the sheriff received the form before September 1, 2003, then the sheriff may not withhold it pursuant to section 552.140 of the Government Code.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Act of May 9, 2011, 82nd Leg., R.S., S.B. 1303, § 27.001(20) (to be codified as Gov't Code § 552.152). Upon review, we have determined release of a portion of the submitted information would subject the officer to a substantial threat of harm.⁵ We therefore conclude the sheriff must withhold the information we have marked under section 552.152 of the Government Code.

Finally, you raise section 552.147 of the Government Code. Section 552.147 excepts from disclosure the social security number of a living person. Gov't Code § 552.147. Upon review, we agree the sheriff may withhold the social security numbers of living individuals contained in the submitted information under section 552.147.⁶

⁵The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁶We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b).

In summary, the sheriff must withhold the following information under section 552.101 of the Government Code⁷: (1) the ST-3 crash report we have marked in conjunction with section 550.065(b) of the Transportation Code; (2) the CHRI we have marked in conjunction with federal law and chapter 411 of the Government Code; (3) the information we have marked in conjunction with common-law privacy; (4) the information we have marked in conjunction with section 411.192 of the Government Code; (5) the fingerprints we have marked in conjunction with section 560.003 of the Government Code; (6) the information we have marked under section 552.101 in conjunction with section 1701.454 of the Occupations Code; (7) the polygraph information we have marked in conjunction with section 1703.306 of the Occupations Code; and (8) the W-4 form we have marked in conjunction with section 6103(a) of title 26 of the United States Code. The sheriff must also withhold: (1) the information we have marked under section 552.102 of the Government Code; (2) the officer's personal information we have marked under section 552.117(a)(2) of the Government Code, including the marked cellular telephone number, if the officer pays for the cellular service with personal funds; (3) the marked photographs under section 552.119 of the Government Code; (4) the information we have marked under section 552.130 of the Government Code; (5) the marked information under section 552.136 of the Government Code; (6) the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure; (7) the DD-214 form we have marked under section 552.140 of the Government Code; and (8) the information we have marked under section 552.152 of the Government Code.⁸ The sheriff may withhold the social security numbers of living individuals contained in the submitted information under section 552.147. The sheriff 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 http://www.oag.state.tx.us/open/index_orl.php.

⁷We note that as part of the responsive information, you have submitted a compact disk that contains various files that you have labeled "TLETS Audit Report." We have printed out and marked a representative sample of information from this report that must be withheld under sections 552.101 and 552.130.

⁸As previously noted, this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including: W-4 forms under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code; a fingerprint under section 552.101 in conjunction with section 560.003 of the Government Code; a Texas license plate number under section 552.130 of the Government Code; and a Form DD-214 that is first recorded or first comes into the possession of a governmental body on or after September 1, 2003 under section 552.140 of the Government Code, without the necessity of requesting an attorney general decision.

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 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 that reads "Sean Opperman".

Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 435694

Enc. Submitted documents

c: Requestor
(w/o enclosures)