



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 9, 2012

Ms. Elizabeth L. White
Attorney for City of League City
Ross, Banks, May, Cron & Cavin, PC
2 Riverway, Suite 700
Houston, Texas 77056-1918

OR2012-00357

Dear Ms. White:

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# 441769.

The League City Police Department (the "department"), which you represent, received a request for information concerning two named officers. You state some information has been released to the requestor. You state you will redact some information as permitted by Open Records Decision No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.114, 552.115, 552.117, 552.1175, 552.119, 552.122, 552.130, 552.136, 552.137, and 552.140 of the Government Code.² We have

¹Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold several categories of information, including direct deposit authorization forms under section 552.101 of the Government Code in conjunction with common-law privacy, W-2 and 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, and a Form I-9 and attachments under section 552.101 of the Government Code in conjunction with section 1324a of title 8 of the United States Code, without the necessity of requesting an attorney general decision.

²Although you raise section 552.101 in conjunction with sections 552.117, 552.1175, 552.119, 552.130, 552.136, 552.137, 552.140, and 552.147, we note this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2000), 575 at 2 (1990).

considered the claimed exceptions and reviewed the submitted representative sample of information.³

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 information made confidential by other statutes, such as section 143.089 of the Local Government Code. You state League City (the “city”) is a civil service city under chapter 143 of the Local Government Code. Section 143.089 contemplates two different types of personnel files for police officers in a civil service city: a civil service file the civil service director is required to maintain and an internal file the police department may maintain for its own use. Local Gov’t Code § 143.089(a), (g). The officer’s civil service file must contain certain specified items, including commendations, periodic evaluations by the police officer’s supervisor, and documents relating to any misconduct in which the department took disciplinary action against the officer under chapter 143 of the Local Government Code. *Id.* § 143.089(a)(1)-(2). Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *Id.* §§ 143.051-.055; *see* Attorney General Opinion JC-0257 (written reprimand is not disciplinary action for purposes of chapter 143 of the Local Government Code).

In cases in which a police department investigates a police officer’s misconduct and takes disciplinary action against an officer, it is required by section 143.089(a)(2) to place all investigatory records relating to the investigation and disciplinary action, including background documents such as complaints, witness statements, and documents of like nature from individuals who were not in a supervisory capacity, in the police officer’s civil service file maintained under section 143.089(a). *See Abbott v. City of Corpus Christi*, 109 S.W.3d 113, 122 (Tex. App.—Austin 2003, no pet.). All investigatory materials in a case resulting in disciplinary action are “from the employing department” when they are held by or in possession of the department because of its investigation into a police officer’s misconduct, and the department must forward them to the civil service commission for placement in the civil service personnel file. *Id.* Such records are subject to release under the Act. *See* Local Gov’t Code § 143.089(f); Open Records Decision No. 562 at 6 (1990). However, information maintained in a police department’s internal file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. Tex. Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied).

You state Exhibits A2 and B2 through B5 are maintained in the department’s internal files for the officers at issue pursuant to section 143.089(g) and pertain to investigations into

³We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

alleged misconduct in which no disciplinary action was taken. Upon review, we agree these exhibits constitute internal files maintained by the department for its own use. Thus, Exhibits A2 and B2 through B5 are confidential under section 143.089(g) of the Local Government Code and must be withheld under section 552.101 of the Government Code.⁴

We next address your exceptions against disclosure of Exhibits A1 and B1. Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code, which provides, in relevant part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). Thus, section 58.007 protects juvenile law enforcement records related to delinquent conduct and conduct indicating a need for supervision that occurred on or after September 1, 1997. You assert the information you have marked in Exhibit B1 is confidential under section 58.007. However, the document you have marked is a letter of commendation. This document is not a law enforcement record of a juvenile offender for purposes of section 58.007. Therefore, the commendation is not confidential under section 58.007 and may not be withheld under section 552.101 on that basis.

Section 552.101 of the Government Code 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 id.* § 560.001(1) (“biometric identifier” means retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry). There is no indication the requestor has a right of access to the fingerprints under section 560.002. *See id.* § 560.002(1)(A) (governmental body may

⁴Because our ruling is dispositive, we do not address your remaining arguments against disclosure.

not sell, lease, or otherwise disclose individual's biometric identifier to another person unless the individual consents to disclosure). Therefore, the department must withhold the fingerprints we have marked in Exhibits A1 and B1 under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code.

Section 552.101 of the Government Code also encompasses chapter 411 of the Government Code, which pertains to criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. *See id.* § 411.083(a). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual laws with respect to the CHRI it generates. *See id.* 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 id.* § 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). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Similarly, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 in conjunction with chapter 411, subchapter F of the Government Code. We note section 411.083 does not apply to driving record information. *See id.* § 411.082(2)(B). Upon review, we find the information we have marked in Exhibits A1 and B1 constitutes CHRI. Thus, the department must withhold the marked information under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code.

Section 552.101 of the Government Code also encompasses section 143.090 of the Local Government Code. Section 143.090 provides as follows:

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:

- (1) the officer has been charged with an offense by indictment or by information;
- (2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;
- (3) the photograph is introduced as evidence in a judicial proceeding; or

(4) the officer gives written consent to the release of the photograph.

Loc. Gov't Code § 143.090. As noted above, the city is a civil service city under chapter 143 of the Local Government Code. Exhibits A1 and B1 contain photographs of department officers. You do not inform us, and it does not appear, that any of the exceptions to withholding a photograph under section 143.090 are applicable. Therefore, we conclude the department must withhold the police officers' photographs we have marked in Exhibits A1 and B1 under section 552.101 in conjunction with section 143.090 of the Local Government Code.⁵

Section 552.101 of the Government Code also encompasses the Medical Practice Act (the "MPA"), subtitle B of title 3 of the Occupations Code. *See* Occ. Code §§ 151.001-165.160. The MPA governs access to medical records. Section 159.002 of the MPA provides, in part:

(a) A communication between a physician and a patient, relative to or in connection with any professional services as a physician to the patient, is confidential and privileged and may not be disclosed except as provided by this chapter.

(b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.

(c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is acting on the patient's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Id. § 159.002(a)-(c). Information subject to the MPA includes both medical records and information obtained from those medical records. *See id.* §§ 159.002, .004; Open Records Decision No. 598 (1991). This office has concluded the protection afforded by section 159.002 extends only to records created by either a physician or someone under the supervision of a physician. *See* Open Records Decision Nos. 487 (1987), 370 (1983), 343 (1982). Upon review, we find the information we have marked in Exhibit B1 consists of records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that were created by a physician. Therefore, the marked information constitutes confidential medical records and may be released only in accordance with the MPA.

⁵Because our ruling as to this information is dispositive, we do not address your remaining argument under section 552.119 of the Government Code against its disclosure.

Section 552.101 of the Government Code also encompasses section 1701.306 of the Occupations Code. Section 1701.306 makes confidential the L-2 Declaration of Medical Condition and L-3 Declaration of Psychological and Emotional Health forms required by the Texas Commission on Law Enforcement Officer Standards and Education ("TCLEOSE"). Section 1701.306 provides:

(a) [TCLEOSE] may not issue a license to a person as an officer or county jailer unless the person is examined by:

(1) a licensed psychologist or by a psychiatrist who declares in writing that the person is in satisfactory psychological and emotional health to serve as the type of officer for which a license is sought; and

(2) a licensed physician who declares in writing that the person does not show any trace of drug dependency or illegal drug use after a physical examination, blood test, or other medical test.

(b) An agency hiring a person for whom a license is sought shall select the examining physician and the examining psychologist or psychiatrist. The agency shall prepare a report of each declaration required by Subsection (a) and shall maintain a copy of the report on file in a format readily accessible to [TCLEOSE]. A declaration is not public information.

Occ. Code § 1701.306(a)-(b). We agree the department must withhold the L-2 and L-3 and the attached written declaration we have marked in Exhibits A1 and B1 under section 552.101 in conjunction with section 1701.306 of the Occupations Code.

Section 552.101 of the Government Code also encompasses the common-law right to 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 met. *Id.* at 681-82. Common-law privacy protects the types of information held to be intimate or embarrassing in *Industrial Foundation*. *See id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has determined other types of information are private under section 552.101. *See generally* Open Records Decision No. 659 at 4-5 (1999) (summarizing information attorney general has held to be private). We have found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See* Open Records Decision Nos. 470 (1987)

(illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). We also have concluded a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person, and is generally not of legitimate concern to the public. *Cf. United States 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 courthouse 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). However, we note criminal history information obtained by a law enforcement agency in the process of hiring a peace officer is a matter of legitimate public interest. We also note information relating to routine traffic violations does not implicate privacy concerns. *Cf. Gov't Code § 411.081(b)*.

We note the submitted information pertains to peace officers employed by the department. As this office has stated on many occasions, the public generally has a legitimate interest in public employment and public employees, particularly those who are involved in law enforcement. *See Open Records Decision No. 444 at 6 (1986)* (public has genuine interest in information concerning law enforcement employee's qualifications and performance and circumstances of his termination or resignation); *see also Open Records Decision Nos. 562 at 10 (1990)* (personnel information does not involve most intimate aspects of human affairs, but in fact touches on matters of legitimate public concern), *473 at 3 (1987)* (fact that public employee received less than perfect or even very bad evaluation not private), *470 at 4 (1987)* (job performance does not generally constitute public employee's private affairs). We find the medical information we have marked in Exhibits A1 and B1 is highly intimate or embarrassing and not a matter of legitimate public interest. The department must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information is highly intimate or embarrassing and of no legitimate public interest, and it may not be withheld under section 552.101 on that basis.

Section 552.101 of the Government Code also encompasses the informer's privilege, which has long been recognized by Texas courts. *E.g., Aguilar v. State*, 444 S.W.2d 935,937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S. W.2d 724,725 (Tex. Crim. App. 1928). The informer's privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided the subject of the information does not already know the informer's identity. *See Open Records Decision No. 208 at 1-2 (1978)*. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." *Open Records Decision No. 279 at 1-2 (1981)* (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J.

McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4 (1988). The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 at 5 (1990).

You state portions of Exhibits A1 and B1 reveal the identities of individuals who reported possible violations of law to the department. As to the information in Exhibit A1, we understand the informant reported a possible violation of the Penal Code, over which the department has enforcement authority. Based on your representation and our review, we agree the identity of the informant, which we have marked, may be withheld under the informer's privilege. However, we find the information you have indicated in Exhibit B1 consists of the identities of officers who investigated a crime after it was reported to the department, not the identity of the informant who reported the violation. In addition, you do not explain how any of the remaining information identifies an informer for purposes of the common-law informer's privilege. Thus, the department may not withhold any of the remaining information under section 552.101 in conjunction with the informer's privilege.

We note portions of the remaining information are subject to section 552.102 of the Government Code.⁶ 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). The Texas Supreme Court recently 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. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010). Having carefully reviewed the information at issue, we have marked the information in Exhibits A1 and B1 that must be withheld under section 552.102(a) of the Government Code.

Section 552.114(a) excepts from disclosure student records "at an educational institution funded wholly or partly by state revenue." Gov't Code § 552.114(a). This office has determined the same analysis applies under section 552.114 and the Family Educational Rights and Privacy Act of 1974 ("FERPA"), section 1232g of title 20 of the United States Code. FERPA governs the availability of student records held by educational institutions or agencies receiving federal funds. We note section 552.114 and FERPA apply only to student records in the custody of an educational institution and records directly transferred from an educational institution to a third party. *See* 34 C.F.R. § 99.33(a)(2). You contend some of the remaining information is confidential under section 552.114. However, the department is not an educational institution. *See* Open Records Decision No. 309 at 3 (1983) (City of Fort Worth not an "educational agency" for purposes of FERPA). You do not inform us, and it does not otherwise appear from our review, that the department received any of the submitted information directly from an educational institution. We therefore conclude the

⁶The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions.

department may not withhold any of the remaining information on the basis of section 552.114 of the Government Code or FERPA.

Section 552.115 of the Government Code excepts from disclosure “[a] birth or death record maintained by the bureau of vital statistics of the Texas Department of Health or a local registration official[.]” Gov’t Code § 552.115(a). Section 552.115 is applicable only to information maintained by the bureau of vital statistics or local registration official. *See* Open Records Decision No. 338 (1982). In this instance, the department maintains the birth certificates contained in the submitted information. We therefore conclude the department may not withhold the submitted birth certificates under section 552.115 of the Government Code.

You state the department will redact the information you have marked under section 552.117(a)(2) of the Government Code pursuant to the previous determination issued to all governmental bodies in Open Records Decision No. 670 (2001). Open Records Decision No. 670 authorizes the withholding of home addresses and telephone numbers, personal cellular telephone numbers, personal pager numbers, social security numbers, and family information of peace officers, without the necessity of requesting an attorney general decision. In this instance, however, we note that some of the information you have marked is not subject to section 552.117 of the Government Code. Therefore, we will address the applicability of section 552.117 to the information at issue.

Section 552.117(a)(2) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of a peace officer, regardless of whether the peace officer made an election under sections 552.024 or 552.1175 of the Government Code to keep such information confidential. Gov’t Code § 552.117(a); *see also id.* § 552.024. Section 552.117 encompasses 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) (statutory predecessor to Gov’t Code § 552.117 not applicable to numbers for cellular mobile telephones installed in county officials’ and employees’ private vehicles and intended for official business). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, the department must withhold the information we have marked in Exhibits A1 and B1 under section 552.117(a)(2). However, the department may withhold the cellular numbers we marked only if the cellular service is not paid for by a governmental body. We find the remaining information you seek to withhold is not subject to section 552.117 and may not be withheld on that basis.

Section 552.1175 of the Government Code also excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of, among other individuals, a peace officer as defined by article 2.12 of the Code of Criminal Procedure if the officer elects to restrict such information. *See id.* § 552.1175(a)(1), (b). Section 552.1175 applies to information a governmental body does

not hold in its capacity as an employer. Upon review, we find none of the remaining information consists of the personal information of a peace officer that is not held by the department in an employment capacity. Thus, the department may not withhold any of the remaining information under section 552.1175 of the Government Code.

You state you will redact information under section 552.130 of the Government Code in conjunction with Open Records Decision No. 684. That decision is a previous determination to all governmental bodies permitting them to withhold, among other things, Texas driver's license numbers under section 552.130(a)(1) without the necessity of requesting an opinion from this office. However, on September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d)-(e). Thus, the statutory amendments to section 552.130 of the Government Code superseded Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may redact information subject to subsections 552.130(a)(1) and (a)(3) only in accordance with section 552.130, not Open Records Decision No. 684. Upon review, we find the department must withhold the information we have marked under section 552.130. However, we find the remaining information you have marked is not motor vehicle record information subject to section 552.130 of the Government Code and may not be withheld on that basis.

Section 552.136 of the Government Code provides that “[n]otwithstanding 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.” *Id.* § 552.136(b). An access device number is one that 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,” and includes an account number. *Id.* § 552.136(a). You have not explained how any of the information you have marked constitutes an access device number for purposes of section 552.136. Therefore, none of the submitted information may be withheld 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 id.* § 552.137(a)-(c). The e-mail addresses we have marked are not of a type specifically excluded by section 552.137(c). Accordingly, the department must withhold the e-mail addresses we have marked in Exhibits A1 and B1 under section 552.137, unless their owners have affirmatively consented to disclosure.

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). The DD-214 form in Exhibit A1, which we have marked, appears to have come into the possession of the department after September 1, 2003. The department must withhold this form under section 552.140. However, you do not inform us, and we cannot determine, when the department came into possession of the DD-214 form in Exhibit B1. Therefore, we must rule conditionally. If the department came into possession of the form we marked in Exhibit B1 on or after September 1, 2003, the department must withhold it under section 552.140 of the Government Code. However, if the department received the form before September 1, 2003, then the department may not withhold it pursuant to section 552.140 of the Government Code.

Finally, we note you have also raised section 552.122 of the Government Code and 552.101 of the Government Code in conjunction with (1) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.*, (2) section 855.115 of the Government Code, (3) section 12.003 of the Human Resources Code, and (4) sections 1701.454 and 1703.306 of the Occupations Code. However, you have not indicated any information you seek to withhold under these exceptions, nor did we find any submitted information that is subject to these exceptions. Accordingly, the department may not withhold any of the requested information on any of these bases.

In summary, the department must withhold Exhibits A2 and B2 through B5 under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. The department must withhold the information we have marked in Exhibits A1 and B1 under section 552.101 in conjunction with section 560.003 of the Government Code, chapter 411 of the Government Code and federal law, and section 143.090 of the Local Government Code. The information we have marked in Exhibit B1 may be released only in accordance with the MPA. The department must withhold the information we marked under section 552.101 in Exhibits A1 and B1 in conjunction with section 1701.306 of the Occupations Code and common-law privacy. The department may withhold the information we have marked in Exhibit A1 under the informer's privilege. The department must withhold the information we marked in Exhibits A1 and B1 under sections 552.102, 552.117, 552.130, and 552.137 of the Government Code. The department must withhold the form we marked in Exhibit A1, and the form we marked in Exhibit B1 if it came into the possession of the department after September 1, 2003, under section 552.140 of the Government Code. The remaining information must be released to the requestor.

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, 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 "Misty Haberer Barham".

Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/agn

Ref: ID # 441769

Enc. Submitted documents

c: Requestor
(w/o enclosures)