



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 12, 2014

Ms. Myrna Reingold
Galveston County Legal Department
772 Moody Street, 5th Floor
Galveston, Texas 77550-2317

OR2014-04184

Dear Ms. Reingold:

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# 516624.

The Galveston County Sheriff's Office (the "sheriff's office") received six requests from the same requestor for all records regarding six named peace officers. You inform us you will release some of the requested information to the requestor upon his response to a cost estimate letter. You also inform us you will redact information in accordance with Open Records Letter No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.114, 552.117, 552.1175, 552.130, 552.137, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes officers' Texas Commission on Law Enforcement Officer Standards and Education ("TCLEOSE") identification numbers. In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. We understand the officers' TCLEOSE identification numbers are

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision, including: a fingerprint under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code and a DD-214 form under section 552.140 of the Government Code.

unique computer-generated numbers assigned to peace officers for identification in TCLEOSE's electronic database, and may be used as access device numbers on the TCLEOSE website. Thus, we find the TCLEOSE numbers in the submitted information do not constitute public information under section 552.002 of the Government Code. Therefore, the TCLEOSE numbers in the submitted information are not subject to the Act and need not be released to the requestor.

Next, we note a portion of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2012-10816 (2012). In Open Records Letter No. 2012-10816, we determined the sheriff's office must withhold (1) the marked mental health record under section 552.101 of the Government Code in conjunction with section 611.002 of the Health and Safety Code; (2) the information we marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code; (3) the information we marked under section 552.101 in conjunction with common-law privacy; (4) the information we marked under section 552.102(a) of the Government Code; (5) the information we marked under section 552.117(a)(2) of the Government Code; (6) except where we marked for release, the information marked under section 552.130 of the Government Code; and (7) the military discharge record you marked under section 552.140 of the Government Code; and must release the remaining responsive information. We have no indication there has been any change in the law, facts, or circumstances on which the prior ruling was based. Accordingly, for the submitted information that is identical to the information previously requested and ruled upon by this office, we conclude the sheriff's office must rely on Open Records Letter No. 2012-10816 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). To the extent the submitted information was not previously submitted to and ruled upon by the office, we will consider your arguments against disclosure.

Next, you acknowledge, and we agree, the sheriff's office did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *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) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Because the sheriff's office's claims under sections

552.101, 552.102, 552.114, 552.117, 552.1175, 552.130, and 552.137 of the Government Code can provide compelling reasons for non-disclosure under section 552.302, we will address your arguments under those exceptions.

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 section 1701.306 of the Occupations Code, which provides in relevant part:

(a) The [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 as an officer or county jailer 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 the commission. A declaration is not public information.

Occ. Code § 1701.306(a)-(b). You state you will withhold the L-2 Declaration of Medical Condition and L-3 Declaration of Psychological and Emotional Health forms you have marked under section 552.101 of the Government Code in conjunction with section 1701.306 of the Occupations Code pursuant to Open Records Decision No. 684.² You also ask whether the attachments to the L-2 and L-3 forms are confidential pursuant to section 1701.306 and whether you may withhold the attachments pursuant to Open Records Decision No. 684. We note the language of section 1701.306 only provides for the confidentiality of the declaration. *See id.* § 1701.306(b); *see also* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection). Accordingly, the attachments to the L-2 and L-3 forms are not made confidential by section 1701.306. Accordingly, the sheriff's office may not withhold this information under section 552.101 on that basis. Furthermore, Open Record Decision No. 684 does not authorize the withholding of this information. *See* ORD 684 at 7.

²Open Records Decision No. 684 authorizes all governmental bodies to withhold L-2 and L-3 declarations under section 552.101 of the Government Code in conjunction with section 1701.306 of the Occupations Code without the necessity of requesting an attorney general decision. Further, we note this ruling is dispositive of your remaining arguments for this information.

Section 552.101 of the Government Code also encompasses section 1701.454 of the Occupations Code, which governs the public availability of information submitted to 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 [the Act], 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.

Occ. Code § 1701.454. The submitted information contains an F-5 Report of Separation of Licensee. The information at issue does not indicate the officer at issue resigned or was terminated for reasons other than substantiated incidents of excessive force or violations of the law other than traffic offenses. Therefore, the sheriff's office must withhold the submitted F-5 report, which you have marked, under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code.

Section 552.101 of the Government Code also encompasses section 611.002(a) of the Health and Safety Code. Section 611.002 provides, “[c]ommunications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.” Health & Safety Code § 611.002(a). Section 611.001 defines a “professional” as (1) a person authorized to practice medicine, (2) a person licensed or certified by the state to diagnose, evaluate or treat mental or emotional conditions or disorders, or (3) a person the patient reasonably believes is authorized, licensed, or certified. *See id.* § 611.001(2). The responsive information contains mental health records, which you have marked. Accordingly, the sheriff's office must withhold the marked mental health records under section 552.101 of the Government Code in conjunction with section 611.002 of the Health and Safety Code.³

Section 552.101 of the Government Code also encompasses chapter 772 of the Health and Safety Code which authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000.

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

You indicate the submitted information includes the originating addresses of 9-1-1 callers that were furnished by a service supplier. We note you do not inform us whether Galveston County is part of an emergency communication district established under section 772.118, section 772.218, or section 772.318 of the Health and Safety Code. Nevertheless, if the sheriff's office is part of an emergency communication district established under section 772.118, section 772.218, or section 772.318, then, to the extent the remaining information contains the addresses of 9-1-1 callers supplied by a 9-1-1 service supplier, the sheriff's office must withhold this information under section 552.101 of the Government Code in conjunction with section 772.118, section 772.218, or section 772.318 of the Health and Safety Code. If the sheriff's office is not subject to section 772.118, section 772.218, or section 772.318, or if the addresses were not supplied by a 9-1-1 service supplier, then the sheriff's office may not withhold this information under section 552.101 on the basis of section 772.118, section 772.218, or section 772.318.

Section 552.101 of the Government Code also encompasses chapter 411 of the Government Code, which makes confidential criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. *See* Gov't Code § 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 at 7 (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 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). 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. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* ORD 565. Furthermore, 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 active warrant information or other information relating to one's current involvement with the criminal justice system. *See* Gov't Code § 411.081(b) (police department allowed to disclose information pertaining to person's current involvement in the criminal justice system). Further, CHRI does not include driving record information. *Id.* § 411.082(2)(B). Accordingly, the sheriff's office must withhold the confidential CHRI we have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code. However, none of the remaining information consists of CHRI;

therefore, none of the remaining information may be withheld under section 552.101 on that basis.

Section 552.101 of the Government Code also encompasses section 411.192 of the Government Code, which governs the release of information maintained by DPS concerning the licensure of an individual to carry a concealed handgun. Section 411.192 provides in part:

(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.

Id. § 411.192(a)-(b). We have marked information related to a concealed handgun license. The sheriff's office appears to have obtained the information at issue from DPS. In this instance, the requestor is not a criminal justice agency, nor is the requestor one of the license holders whose information is at issue. Further, we note section 411.193 is not applicable in this instance. *See id.* § 411.193 (making statistical report including number of licenses issued, denied, revoked, or suspended during preceding month available to public). Therefore, the sheriff's office must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with section 411.192 of the Government Code.

Section 552.101 of the Government Code also encompasses information protected by the Medical Practice Act (the "MPA"), subtitle B of title 3 of the Occupations Code. *See Occ. Code* §§ 151.001-168.202. Section 159.002 of the MPA provides in part:

(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(b)-(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). Upon review, we find the information we have marked consists of medical records subject to the MPA. *See* Open Records Decision No. 546 (1990) (because hospital treatment is routinely conducted under supervision of physicians, documents relating to diagnosis and treatment during hospital stay would constitute protected MPA records). Accordingly, the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with the MPA. However, we find none of the remaining information consists of medical records subject to the MPA; accordingly, none of the remaining information may be withheld under section 552.101 on this basis.

Section 552.101 of the Government Code also 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 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. In *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied), the court addressed the applicability of the common-law privacy doctrine to files of an investigation of allegations of sexual harassment. The investigation files in *Ellen* contained individual witness statements, an affidavit by the individual accused of the misconduct responding to the allegations, and conclusions of the board of inquiry that conducted the investigation. *Ellen*, 840 S.W.2d at 525. The court ordered the release of the affidavit of the person under investigation and the conclusions of the board of inquiry, stating the public's interest was sufficiently served by the disclosure of such documents. *Id.* In concluding, the *Ellen* court held "the public did not possess a legitimate interest in the identities of the individual witnesses, nor the details of their personal statements beyond what is contained in the documents that have been ordered released." *Id.* Thus, if there is an adequate summary of an investigation of alleged sexual harassment, the investigation summary must be released under *Ellen*, along with the statement of the accused. However, the identities of the victims and witnesses of the alleged sexual harassment must be redacted, and their detailed statements must be withheld from disclosure. *See* Open Records Decision Nos. 393 (1983), 339 (1982). However, when no adequate summary exists, detailed statements regarding the allegations must be released, but the identities of victims and witnesses must still be redacted from the statements. In either case, the identity of the individual accused of sexual harassment is not protected from public disclosure. We also note supervisors are generally not witnesses for purposes of *Ellen*, except where their statements appear in a non-supervisory context.

Some of the remaining information, which we have marked, relates to investigations into alleged sexual harassment in the workplace and does not include adequate summaries of the investigations. Therefore, the sheriff's office must withhold the identifying information of the victims and witnesses, which we have marked, pursuant to section 552.101 in conjunction with common-law privacy and the holding in *Ellen*.

Common-law privacy also encompasses the types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). This office has also found 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 courthouse files and local police stations and compiled summary of information and noted 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. However, information relating to an individual's current involvement in the criminal justice system does not constitute criminal history information for the purposes of section 552.101. *See* Gov't Code § 411.081(b) (police department allowed to disclose information pertaining to person's current involvement in the criminal justice system). This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally protected by common-law privacy. *See* Open Records Decision No. 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). However, there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Decision Nos. 600 at 9 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy). Additionally, this office has found the public has a legitimate interest in information relating to applicants and employees of governmental bodies and their employment qualifications and job performance, especially where the applicant was seeking a position in law enforcement. *See* Open Records Decision Nos. 562 at 10 (1990), 470 at 4 (1987) (public has legitimate interest in job qualifications and performance of public employees), 444 (1986), 423 at 2 (1984) (scope of public employee privacy is narrow).

Upon review, we conclude portions of the remaining information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.⁴ However, none of the remaining information you have marked is highly intimate or embarrassing and a matter of no legitimate public concern. We therefore conclude the sheriff's office may not withhold any

⁴As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

of the remaining information at issue under section 552.101 in conjunction with common-law privacy.

Section 552.102(a) of the Government Code 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 understand you to assert the privacy analysis under section 552.102(a) is the same as the common-law privacy test under section 552.101 of the Government Code. 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 Third Court of Appeals ruled the privacy test under section 552.102(a) is the same as the *Industrial Foundation* privacy test. However, the Texas Supreme Court 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. See *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 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. See *id.* at 346. Accordingly, the sheriff’s office must withhold the information you have marked, in addition to the information we have marked, under section 552.102 of the Government Code. However, we find none of the remaining information is subject to section 552.102; accordingly, none of the remaining information may be withheld on that basis.

Section 552.114(a) of the Government Code 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 sheriff’s office 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). Further, we note the submitted transcripts reflect they were not transferred directly to the sheriff’s office from an educational institution. We therefore conclude the sheriff’s office may not withhold any of the information at issue on the basis of section 552.114 of the Government Code or FERPA.

We understand you will redact the information you have marked subject to section 552.117(a)(2) of the Government Code in conjunction with *Open Records Decision No. 670*

(2001).⁵ Section 552.117(a)(2) excepts from public disclosure the home addresses, home telephone numbers, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with section 552.024 of the Government Code or section 552.1175 of the Government Code.⁶ Gov't Code § 552.117(a)(2). We note section 552.117 also encompasses a personal cellular telephone or pager number, unless the cellular or pager service is paid for by a governmental body. *See* Open Records Decision No. 506 at 5-7 (1988) (statutory predecessor to section 552.117 not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). We also note section 552.117 is not applicable to a former spouse or the fact that a government employee has been divorced. Additionally, an individual's personal post office box number is not a "home address" for purposes of section 552.117 and therefore may not be withheld under section 552.117. *See* Open Records Decision No. 622 at 6 (1994) (purpose of section 552.117 is to protect public employees from being harassed at home); *see also* Open Records Decision No. 658 at 4 (1998) (statutory confidentiality provision must be express and cannot be implied). Upon review, we find some of the information you have marked is not subject to section 552.117(a)(2). Further, we find some of the remaining responsive information is subject to section 552.117(a)(2). Therefore, except where otherwise indicated, the sheriff's office must withhold the information you have marked, in addition to the information we have marked, under section 552.117(a)(2) of the Government Code; however, the sheriff's office may only withhold the cellular telephone numbers if the cellular service is not paid for by a governmental body.⁷

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. *See* Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). You indicate you have marked the home addresses and home telephone numbers of peace officers not employed by the sheriff's office. We have marked additional information which may consist of the home addresses and home telephone numbers of licensed peace officers. Thus, to the extent this information relates to licensed peace officers who elect to restrict access to the information in accordance with section 552.1175(b), the information you have marked, and the additional information we have marked, must be withheld from disclosure

⁵Open Records Decision No. 670 authorizes 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.

⁶"Peace officer" is defined by Article 2.12 of the Texas Code of Criminal Procedure.

⁷As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

under section 552.1175 of the Government Code.⁸ However, if the individuals whose information is at issue are not currently licensed peace officers or do not elect to restrict access to the information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130(a). Upon review, we find the sheriff's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.⁹ However, we find none of the remaining information is subject to section 552.130; accordingly, none of the remaining information may be withheld on that basis.

You inform us you will redact personal e-mail addresses subject to section 552.137 of the Government Code in accordance with Open Records Decision No. 684.¹⁰ Section 552.137 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 owner of the e-mail address consents to its release or the e-mail address falls within the scope of section 552.137(c). *See id.* § 552.137(a)-(c). Section 552.137 is not applicable to the work e-mail address of an employee of a governmental body because such an address is not that of the employee as a "member of the public" but is instead the address of the individual as a government employee. Upon review, we find some of the e-mail addresses you have marked are not subject to section 552.137. Further, we have marked additional personal e-mail addresses which are subject to section 552.137. Therefore, except where we have marked for release, the sheriff's office must withhold the e-mail addresses you have marked, and the additional e-mail addresses we have marked, under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure.

⁸Section 552.1175(f) of the Government Code authorizes a governmental body to redact under section 552.1175(b), without the necessity of requesting a decision from this office, the home addresses and telephone numbers, emergency contact information, date of birth, social security number, and family member information of a peace officer as defined by article 2.12 of the Code of Criminal Procedure who properly elects to keep this information confidential. *See Gov't Code* § 552.1175(f).

⁹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information. Also, we note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 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).

¹⁰Open Records Decision No. 684 authorizes a governmental body to withhold an e-mail address of a member of the public, under section 552.137 of the Government Code, without the necessity of requesting an attorney general opinion.

You inform us you will redact social security numbers in accordance with section 552.147 of the Government Code.¹¹ Section 552.147 provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). Upon review, we find some of the information you have marked does not consist of a social security number of a living person. Therefore, except for the information we have marked for release, the sheriff’s office may withhold the social security numbers in the remaining information under section 552.147(a) of the Government Code.

In summary, the TCLEOSE numbers in the submitted information are not subject to the Act and need not be released to the requestor. For the submitted information that is identical to the information previously requested and ruled upon by this office, the sheriff’s office must rely on Open Records Letter No. 2012-10816 as a previous determination and withhold or release the identical information in accordance with that ruling. The sheriff’s office must withhold: (1) the marked F-5 report under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code; (2) the marked mental health records under section 552.101 of the Government Code in conjunction with section 611.002 of the Health and Safety Code; (3) the addresses of the 9-1-1 callers under section 552.101 of the Government Code in conjunction with section 772.118, section 772.218, or section 772.318 of the Health and Safety Code, to the extent the addresses were supplied by a 9-1-1 service supplier, and if the sheriff’s office is part of an emergency communication district established under section 772.118, section 772.218, or section 772.318; (4) the CHRI we have marked under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code; (5) the information we have marked under section 552.101 of the Government Code in conjunction with section 411.192 of the Government Code; (6) the information we have marked under section 552.101 of the Government Code in conjunction with the MPA; (7) the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; and (8) the information you have marked, in addition to the information we have marked, under section 552.102 of the Government Code. The sheriff’s office must withhold the information you have marked, in addition to the information we have marked, except where otherwise indicated, under section 552.117(a)(2) of the Government Code; however, the sheriff’s office may only withhold the cellular telephone numbers if the cellular service is not paid for by a governmental body. To the extent the information at issue relates to licensed peace officers who elect to restrict access to the information in accordance with section 552.1175(b) of the Government Code, the sheriff’s office must withhold the information you and we have marked, under section 552.1175 of the Government Code,. The sheriff’s office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. With the exception of the e-mail addresses we have marked for release, the sheriff’s office must withhold the e-mail addresses you have marked, and the additional e-mail addresses we have marked, under section 552.137 of the Government Code, unless

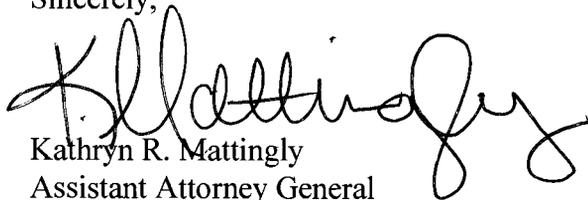
¹¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act. Gov’t Code § 552.147(b).

the owners affirmatively consent to their public disclosure. With the exception of the information we have marked for release, the sheriff's office may withhold the social security numbers in the remaining information under section 552.147(a) of the Government Code. The sheriff's office must release the remaining information 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 516624

Enc. Submitted documents

c: Requestor
(w/o enclosures)