



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2014

Ms. Jennifer Matte
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002

OR2014-15664

Dear Ms. Matte:

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# 535449 (ORR# 14PIA0187).

The Harris County Constable's Office, Precinct 5 (the "constable's office") received a request for the personnel files of two named deputies. You claim the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains peace officers' Texas Commission on Law Enforcement ("commission") identification numbers.¹ 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. ORD 581 at 5. We understand an officer's commission identification number is a unique

¹The Texas Commission on Law Enforcement Officer Standards and Education was renamed the Texas Commission on Law Enforcement by the 83rd Legislature. See Act of May 6, 2013, 83rd Leg., R.S., ch. 93, § 1.01, 2013 Tex. Gen. Laws 174, 174.

computer-generated number assigned to peace officers for identification in the commissioner's electronic database, and may be used as an access device number on the commission's website. Accordingly, we find the officers' commission identification numbers in the submitted information, a representative sample of which we have marked, do not constitute public information under section 552.002 of the Government Code. Therefore, the commission identification numbers are not subject to the Act and the constable's office is not required to release them to the requestor.

Next, we note the requestor excludes certain information from the scope of the request, including home addresses and telephone numbers, social security numbers, family member information, and driver's license and license plate numbers. Accordingly, these types of information, representative samples of which we have marked, are not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request and the constable's office is not required to release that information in response to the request.

You claim the responsive information is excepted under section 552.103 of the Government Code, which provides, in relevant part, as follows:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). A governmental body has the burden of providing relevant facts and documents to show section 552.103(a) is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation was pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *See Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, orig. proceeding); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). A governmental body must meet both prongs of this test for information to be excepted under section 552.103(a). *See* ORD 551.

To establish litigation is reasonably anticipated, a governmental body must provide this office "concrete evidence showing that the claim that litigation may ensue is more than mere conjecture." *See* Open Records Decision No. 452 at 4 (1986). Concrete evidence to support a claim litigation is reasonably anticipated may include, for example, the governmental body's receipt of a letter containing a specific threat to sue the governmental body from an attorney for a potential opposing party. *See* Open Records Decision No. 555 (1990); *see also* Open Records Decision No. 518 at 5 (1989) (litigation must be "realistically contemplated"). In addition, this office has concluded litigation was reasonably anticipated when the potential opposing party hired an attorney who made a demand for disputed payments and threatened to sue if the payments were not made promptly, or when an individual threatened to sue on several occasions and hired an attorney. *See* Open Records Decision Nos. 346 (1982), 288 (1981). On the other hand, this office has determined if an individual publicly threatens to bring suit against a governmental body, but does not actually take objective steps toward filing suit, litigation is not reasonably anticipated. *See* Open Records Decision No. 331 (1982). Further, the fact that a potential opposing party has hired an attorney who makes a request for information does not establish litigation is reasonably anticipated. *See* Open Records Decision No. 361 (1983).

In this instance, you generally state, "To the extent that the records requested are records related to an ongoing contested case of driving while intoxicated, the Governmental Code [sic] chapter 2001 [] defines these actions as 'litigation'. Thus, pursuant to the test, information commensurate to internal affairs investigations and proceedings are adversarial and, therefore, fall within the scope of 'litigation'." Thus, we understand you to indicate the information at issue may relate to an internal affairs investigation or to a case of driving while intoxicated. However, you have failed to provide any arguments explaining how this information is related to any specific litigation that was pending or reasonably anticipated on the date of the constable's office's receipt of the request. Consequently, we find the constable's office may not withhold any portion of the information at issue under section 552.103 of the Government Code.

Next, you assert the submitted information is excepted under section 552.108 of the Government Code, which provides, in relevant part, the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

...

(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 the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution; [or]

(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(a)(1)-(2), (b)(1)-(2). Generally, section 552.108(a)(1) is mutually exclusive of section 552.108(a)(2). Section 552.108(a)(1) protects information that pertains to a pending criminal investigation or prosecution. In contrast, section 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication.

As noted above, you inform us “the records requested are records related to an ongoing contested case of driving while intoxicated.” You also cite to and quote the language of sections 552.108(a)(2) and (b)(2) of the Government Code, and you state “the law enforcement exception even applies in closed cases. . . . This is especially true when the conviction did not result in a conviction as with the case herein.” Thus, we understand you to state the information relates to a concluded case that did not result in conviction or deferred adjudication. Further, you have submitted an affidavit from an employee of the constable’s office stating the information relates to “an ongoing criminal case with a charge of Possession of Marijuana[.]” Thus, we understand the constable’s office to assert the information relates to an ongoing investigation for purposes of section 552.108(a)(1) of the Government Code. Because the constable’s office has provided this office with conflicting arguments, we find the constable’s office has not demonstrated the applicability of section 552.108 to the submitted information. Therefore, the constable’s office may not withhold any of the submitted information under section 552.108 of the Government Code.

You also assert the submitted information is excepted from disclosure under section 552.111 of the Government Code, which excepts from disclosure “[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency[.]” *Id.* § 552.111. This exception encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, no writ); Open Records Decision No. 538 at 1-2 (1990).

In Open Records Decision No. 615, this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. See ORD 615 at 5. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; see also *City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body's policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body's policy mission. See Open Records Decision No. 631 at 3 (1995).

Further, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.—Austin 2001, no pet.); see ORD 615 at 5. But if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. See Open Records Decision No. 313 at 3 (1982).

You assert the information at issue should be protected under section 552.111 because, you argue, "the records requested clearly show the deliberative process as well as interagency and intra-agency discussion." However, we note the information at issue pertains to personnel matters concerning only the named constable's office deputies. You have not demonstrated how this information involves policymaking pertaining to personnel matters of a broad scope. Therefore, the constable's office may not withhold any of the responsive information under section 552.111 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."² Gov't Code § 552.101. This exception encompasses section 6103(a) of title 26 of the United States Code. Prior decisions of this office have held section 6103(a) of title 26 of the United States Code renders federal tax return information confidential. See Attorney General Opinion H-1274 (1978) (tax returns); Open Records Decision Nos. 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,

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 Treasury] 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[.]” *See* 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), *aff’d in part*, 993 F.2d 1111 (4th Cir. 1993). Thus, the submitted W-4 forms, which we have marked, constitute tax return information that is confidential under section 6103(a) of title 26 of the United States Code and must be withheld under section 552.101 of the Government Code.

Section 552.101 of the Government Code also encompasses information protected by 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 that 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 that the Department of Public Safety (“DPS”) maintains, except that 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 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 id.* § 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. *See id.* § 411.082(2)(B). Upon review, we find some of the remaining information, which we have marked, consists of CHRI that is confidential under section 411.083. Thus, the constable’s office must withhold the information we marked under section 552.101 in conjunction with section 411.083 of the Government Code.

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 marked information that is related to a concealed handgun license. In this instance, the requestor is neither the license holder nor a criminal justice agency. Therefore, the constable's office must withhold the information we marked under 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 chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. Section 550.065(c)(4) provides for release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. The submitted information contains CR-3 Texas Peace Officer's Crash Reports. In this instance, the requestor has not provided the constable's office with two of the three pieces of required information pursuant to section 550.065(c)(4). Accordingly, the constable's office must withhold the submitted CR-3 reports, which we have marked, under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Section 552.101 of the Government Code also encompasses information protected by 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 submitted fingerprints under section 560.002. *See id.* § 560.002(1)(A) (governmental body may not sell, lease, or otherwise disclose individual's biometric identifier to another person unless the individual consents to disclosure). Accordingly, the constable's office must withhold the submitted fingerprints, which we have marked, 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 information made confidential by section 1703.306 of the Occupations Code, which provides,

(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.

Occ. Code § 1703.306(a), (b). The remaining information contains information acquired from a polygraph examination. The requestor does not fall within any of the categories of individuals who have a right of access to the submitted polygraph information under section 1703.306(a). Accordingly, the constable's office must withhold the polygraph information, which 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 article 62.005(b) of the Code of Criminal Procedure. Article 62.051 of the Code of Criminal Procedure requires a sex offender registrant to provide the following information for the Texas Department of Public

Safety sex offender registration database: the person's full name; date of birth; sex; race; height; weight; eye color; hair color; social security number; driver's license number; shoe size; home address; each alias; home, work, or cellular telephone number; a recent color photograph, or if possible, an electronic image of the person; a complete set of fingerprints; the type of offense the person was convicted of; the age of the victim; the date of conviction; the punishment received; an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision; an indication of each license, as defined by article 62.005(g), that is held or sought by the person; an indication as to whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution; the identification of any online identifier established or used by the person; and any other information required by the department. *See* Crim. Proc. Code art. 62.051(c). This information is public information with the exception of the person's social security number; driver's license number; home, work, or cellular telephone number; the identification of any online identifier established or used by the person; all information required by the Texas Department of Public Safety outside of the enumerated categories of information including any information regarding an employer's name, address, or telephone number; and any information that would identify the victim of the offense for which the person is subject to registration. *See id.* art. 62.005(b). Thus, the constable's office must withhold or release the information subject to article 62.005 of the Code of Criminal Procedure, which we have marked, in accordance with article 62.005(b).

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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated 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 found personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992) (designation of beneficiary of employee's retirement benefits, direct deposit authorization, and forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). This office has also determined

a public employee's net pay is protected by common-law privacy even though it involves a financial transaction between the employee and the governmental body. *See* Attorney General Opinion GA-0572 at 3-5 (2007) (net salary necessarily involves disclosure of information about personal financial decisions and is background financial information about a given individual that is not of legitimate concern to public). However, there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* ORDs 600 at 9 (information revealing employee participates in group insurance plan funded partly or wholly by governmental body is not excepted from disclosure), 545 (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy). Upon review, we find some of the remaining information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the constable's office must withhold the information we marked under section 552.101 of the Government Code 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). The Texas Supreme Court 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.*, 354 S.W.3d 336 (Tex. 2010). We have marked a representative sample of information that is subject to section 552.102(a) of the Government Code. Accordingly, the constable's office must withhold the types of information we marked under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home address, home telephone number, 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 sections 552.024 and 552.1175 of the Government Code. *See* Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. We note section 552.117 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Accordingly, the constable's must withhold the information we have marked under section 552.117(a)(2) of the Government Code; however, the marked cellular telephone numbers may be withheld only if a governmental body does not pay for the cellular telephone service.

Some of the remaining information may be subject to section 552.1175 of the Government Code, which provides, in part, the following:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b). Some of the remaining information, which we have marked, relates to an individual who was licensed as a peace officer of another law enforcement agency at the time the information at issue was created. Accordingly, to the extent the licensed peace officer at issue elects to restrict access to the information in accordance with section 552.1175(b), the constable's office must withhold the marked information under section 552.1175 of the Government Code. Conversely, if the individual whose information is at issue does 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 personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. Accordingly, the constable's office must withhold the responsive motor vehicle record information we have marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "Notwithstanding any other provision of [the Act], 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); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. Accordingly, the constable's office must withhold the insurance policy numbers we have marked 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 at issue are not excluded by subsection (c). Therefore, the constable’s office 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 some of the materials at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

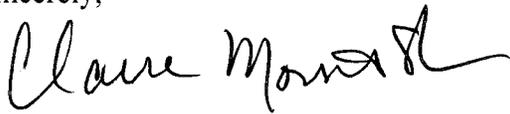
In summary, the officers’ commission identification numbers in the submitted information, a representative sample of which we marked, do not constitute public information under section 552.002 of the Government Code and the constable’s office is not required to release them to the requestor. The types of information we marked, including home addresses and telephone numbers, social security numbers, family member information, and driver’s license and license plate numbers, are not responsive to the request for information and the constable’s office is not required to release that information in response to the request. The constable’s office must withhold (1) the W-4 forms we marked under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code, (2) the information we marked under section 552.101 in conjunction with section 411.083 of the Government Code, (3) the information we marked under section 552.101 of the Government Code in conjunction with section 411.192 of the Government Code, (4) the CR-3 reports we marked under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code, (5) the fingerprints we marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code, and (6) the marked polygraph information under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. The constable’s office must withhold or release the information we marked subject to article 62.005 of the Code of Criminal Procedure in accordance with article 62.005(b). The constable’s office must also withhold (1) the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) employees’ dates of birth, a representative sample of which we marked under section 552.102(a) of the Government Code; (3) the information we have marked under section 552.117(a)(2) of the Government Code, but may withhold the marked cellular telephone numbers only if a governmental body does not pay for the cellular telephone service; (4) the information we marked under section 552.1175 of the Government Code, to

the extent the licensed peace officer at issue elects to restrict access to the information in accordance with section 552.1175(b); (5) the responsive motor vehicle record information we marked under section 552.130 of the Government Code; (6) the insurance policy numbers we marked under section 552.136 of the Government Code; and (7) the personal e-mail addresses we marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure. The constable's office must release the remaining information; however, any information that is subject to copyright may be released only in accordance with copyright law.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 535449

Enc. Submitted documents

c: Requestor
(w/o enclosures)