ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 6, 2014

Mr. James C. Tidwell
Counsel for Fannin County Sheriff's Office
Wolfe, Tidwell & McCoy, L.L.P.
320 North Travis Street, Suite 205
Sherman, Texas 75090

OR2014-20212

Dear Mr. Tidwell:

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# 542306.

The Fannin County Sheriff's Office (the "sheriff's office"), which you represent, received a request for information pertaining to three named former employees and information pertaining to specified types of investigations during a specified time period.[1] You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108(a)(1), 552.117, 552.130, 552.137, and 552.147 of the Government Code.[2] We have considered the exceptions you claim and reviewed the submitted information.

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[1]You state the sheriff's office sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

[2]Although you also raise section 552.1175, we note section 552.117 is the correct exception to raise for information the sheriff's office holds in its capacity as employer. Further, although you also raise sections 552.108(b), 552.111, 552.114, 552.119, and 552.132 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim that these exceptions apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

Initially, we note the submitted information includes officers' Texas Commission on Law Enforcement ("TCOLE") 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 an officer's TCOLE identification number is a unique 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 TCOLE website. Thus, we find the officers' TCOLE numbers do not constitute public information under section 552.002 of the Government Code. Therefore, the officers' TCOLE numbers are not subject to the Act and need not be released to the requestor.

Next, we note the sheriff's office has not submitted information pertaining to one of the named former employees. To the extent information responsive to that portion of the request existed on the date the sheriff's office received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Next, you state the sheriff's office has redacted dates of birth under section 552.102(a) of the Government Code pursuant to the court's ruling in *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). We note, however, pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *See* Gov't Code § 552.301(a), (e)(1)(D). The court ruling at issue does not authorize the sheriff's office or any other governmental body to withhold dates of birth under section 552.102(a) without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). Thus, this information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the redacted information at issue; thus, being deprived of that information does not inhibit our ability to make a ruling. However, in the future, failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See* Gov't Code § 552.302.

We note the submitted information contains court-filed documents. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is made confidential under the Act or other law. *Id.* § 552.022(a)(17). Although the sheriff's office seeks to withhold this information under section 552.108 of the Government Code, this section is a discretionary

exception and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). Accordingly, the sheriff's office may not withhold the court-filed documents, which we have marked, under section 552.108. The sheriff's office also raises section 552.101 in conjunction with common-law privacy for the court-filed documents. We note that information that has been filed with a court is not protected by common-law privacy. *See Star-Telegram v. Walker*, 834 S.W.2d 54 (Tex. 1992) (common-law privacy not applicable to court-filed document). Accordingly, the sheriff's office may not withhold any portion of the court-filed documents on the basis of common-law privacy. The sheriff's office also claims this information is protected from disclosure under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The common-law informer's privilege is other law for the purpose of section 552.022. *See In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001); *Tex. Comm'n on Envtl. Quality v. Abbot*, No. GV-300417 (126th Dist. Ct., Travis County, Tex.). Thus, we will address your assertion of section 552.101 of the Government Code in conjunction with the informer's privilege. Further, because sections 552.102, 552.117, and 552.137 of the Government Code can make information confidential under the Act, we will address the applicability of these sections to the information subject to section 552.022(a)(17). Further, we will address your arguments against disclosure of the remaining information.

Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 is generally not applicable to the records of an internal affairs investigation that is purely administrative in nature and that does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). You state Exhibit 3A relates to a criminal investigation currently ongoing with assistance from the Texas Rangers, and release of that information would interfere with the investigation and prosecution of the case. Based on this representation, we conclude the release of Exhibit 3A would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to Exhibit 3A.

However, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the sheriff's office may withhold Exhibit 3A under section 552.108(a)(1) of the Government Code.[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 261.201(a) of the Family Code, which provides, in relevant part:

> (a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:
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> > (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
> >
> > (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You assert Exhibit 3D was used in an investigation of alleged child abuse under chapter 261 of the Family Code. *See id.* §§ 261.001(1), (4) (defining "abuse" and "neglect" for purposes of section 261.201 of Family Code), 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). We note the information at issue relates to an administrative investigation by the sheriff's office of a former employee of the sheriff's office. However, we note the information at issue contains a police report we find was used or developed in the investigation of child abuse. This information is within the scope of section 261.201. You state the sheriff's office has not adopted any rules that would permit the release of this type of information. Based on our review, we determine the sheriff's office must withhold the information we have marked in Exhibit 3D under section 552.101 of the Government Code in conjunction with

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

section 261.201(a) of the Family Code.[4] However, we find you have failed to demonstrate how the remaining information in Exhibit 3D involves a report of alleged or suspected abuse or neglect of a child made under chapter 261 of the Family Code, or how this information was used or developed in an investigation under chapter 261. Accordingly, we conclude the sheriff's office may not withhold the remaining information in Exhibit 3D under section 552.101 on this 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 biometric identifiers 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 sheriff's office must withhold the biometric identifiers we have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code.[5]

Section 552.101 of the Government Code also encompasses information made confidential by section 1701.306 of the Occupations Code. Section 1701.306 makes confidential L-3 Declaration of Psychological and Emotional Health forms required by TCOLE. Former section 1701.306 provides, in part:

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

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

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

> declaration required by Subsection (a) and shall maintain a copy of the report on file in a format readily accessible to [TCOLE]. A declaration is not public information.

Act of May 17, 1999, 76th Leg., R.S., ch. 388, § 1, 1999 Tex. Gen. Laws 1431, 2219 (current version at Occ. Code § 1701.306(a), (b)). Therefore, the sheriff's office must withhold the submitted L-3 declaration form, which we have marked, under section 552.101 of the Government Code in conjunction with former section 1701.306 of the Occupations Code.[6]

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:
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> > (1) the examinee or any other person specifically designated in writing by the examinee;
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> > (2) the person that requested the examination;
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> > (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;
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> > (4) another polygraph examiner in private consultation; or
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> > (5) any other person required by due process of law.
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> (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 polygraph information under

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[6]We note the L-3 declaration form at issue was created prior to September 1, 2011. Although section 1701.306 of the Occupations Code was amended in 2011 by the 82nd Legislature, L-3 declaration forms created prior to September 1, 2011 are subject to the former version of section 1701.306, which was continued in effect for that purpose. As our ruling is dispositive, we need not address your remaining arguments against the disclosure of this information.

section 1703.306(a). Accordingly, the sheriff'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.[7]

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. In Open Records Decision No. 393 (1983), this office concluded generally only information that either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy. ORD 393 at 2; *see Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information).

This office has also found common-law privacy generally protects the identifying information of a juvenile victim of abuse or neglect. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code § 261.201. 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 personal financial information not relating to a financial transaction between an individual and a governmental body is generally private. *See* Open Records Decision Nos. 600 (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 (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), 455 at 9 (1987) (employment applicant's salary information not private), 423 at 2 (1984) (scope of public employee privacy is narrow). We also note the public generally has a legitimate interest in information that relates to public employment and public employees. *See* Open Records Decisions Nos. 562 at 10 (1990) (personnel file information does not involve most intimate aspects of human affairs, but in fact touches on matters of legitimate public concern), 542 (1990), 470 at 4 (1987) (public has legitimate interest in job qualifications and performance of public employees), 444 at 5-6 (1986) (public has legitimate interest in knowing reasons for dismissal, demotion, promotion, or resignation of public employees).

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

Upon review, we agree portions of the remaining information satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, 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.[8] However, some of the remaining information does not identify any individual to whom the information pertains. Thus, this information does not implicate any individual's right to privacy. Further, you have not demonstrated any portion of the remaining information is highly intimate or embarrassing and of no legitimate public concern. Therefore, the remaining information may not be withheld under section 552.101 on that basis.

Section 552.101 of the Government Code also encompasses the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer's privilege protects 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 Nos. 515 at 3 (1998), 208 at 1-2 (1978). The 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." *See* Open Records Decision No. 279 at 2 (1981) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J. McNaughton rev. ed. 1961)). The report must involve a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5. The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You argue portions of the remaining information reveal the identities of individuals "who were drawn into [an] ongoing investigation due to their employment or personal situation." Upon review, we find you have not demonstrated how any of the remaining information identifies an individual who made a report of a violation of any criminal or civil law for purposes of the common-law informer's privilege. Accordingly, the sheriff's office may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

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). You 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, which is discussed above. *See Indus. Found.*, 540 S.W.2d at 685. In *Hubert v. Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546, 549-51 (Tex.

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

App.—Austin 1983, writ ref'd n.r.e.), the 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 has expressly disagreed with *Hubert*'s interpretation of section 552.102(a), and held the privacy standard under section 552.102(a) differs from the *Industrial Foundation* test under section 552.101. *See Tex. Comptroller of Pub. Accounts*, 354 S.W.3d 336. The supreme court also considered the applicability of section 552.102(a) and held it excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *See id.* at 348. Upon review, we find the sheriff's office must withhold the date of birth you have redacted, as well as the dates of birth we have marked, under section 552.102(a) of the Government Code.[9] However, we find no portion of the remaining information is subject to section 552.102(a) of the Government Code, and the sheriff's office may not withhold any of the remaining information on that basis.

The sheriff's office redacted some information it determined to be subject to section 552.117 of the Government Code.[10] 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). We note a post office box number is not a "home address" for purposes of section 552.117(a). *See* Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of Gov't Code § 552.117 is to protect public employees from being harassed at home). 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 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). If the individuals at issue are currently licensed peace officers as defined by article 2.12, then the sheriff's office must withhold the information you have redacted, as well as the information we have marked, under section 552.117(a)(2) of the Government Code; however, the sheriff's office may only

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

[10]Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses to not allow public access to the information. *See* Gov't Code § 552.024(c)(2). Open 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. *See* Open Records Decision No. 670 at 6 (2001).

withhold the marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body. Conversely, if the individuals at issue are not currently licensed police officers as defined by article 2.12, the information at issue may not be withheld under section 552.117(a)(2) of the Government Code. In addition, we conclude section 552.117(a)(2) of the Government Code is not applicable to the remaining information, and the sheriff's office may not withhold it on that ground.

If the individuals at issue are not currently licensed peace officers, then their personal information may be subject to section 552.117(a)(1) of the Government Code, which excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security number, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024. Gov't Code § 552.117(a)(1). As noted above, 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* ORD 506 at 5-7. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The sheriff's office may only withhold the information at issue under section 552.117(a)(1) if the individuals at issue elected confidentiality under section 552.024 prior to the date on which the request for this information was made. If the individuals at issue are no longer certified peace officers and made timely elections under section 552.024, the sheriff's office must withhold the information you have redacted, as well as the information we have marked, under section 552.117(a)(1) of the Government Code; however, the sheriff's office may only withhold the marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body. Conversely, if the individuals at issue are no longer certified peace officers and did not make timely elections under section 552.024, their information may not be withheld under section 552.117(a)(1) of the Government Code. In addition, we conclude section 552.117(a)(1) of the Government Code is not applicable to the remaining information, and the sheriff's office may not withhold it on that ground.

The sheriff's office has redacted some information pursuant to section 552.130(c) of the Government Code.[11] We note the remaining information contains additional information subject to section 552.130. 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* Gov't Code § 552.130. Accordingly, the sheriff's office must withhold the motor vehicle record information you have redacted, as well as the information we have marked, under section 552.130 of the Government Code.

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[11]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).

The sheriff's office has redacted an e-mail address under section 552.137 of the Government Code.[12] 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). *Id.* § 552.137(a)-(c). Section 552.137 is not applicable to an e-mail address that a governmental entity maintains for one of its officials or employees. Upon review, we find the e-mail address you have redacted, as well as the e-mail addresses we have marked, are not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the sheriff's office must withhold the e-mail address you have redacted, as well as the e-mail addresses we have marked, under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure. However, we find the remaining information at issue contains only e-mail addresses subject to section 552.137(c). Accordingly, the sheriff's office may not withhold any of the remaining information at issue under section 552.137 of the Government Code.

In summary, the officers' TCOLE numbers are not subject to the Act and need not be released to the requestor. The sheriff's office must release the information we have marked subject to section 552.022(a)(17) of the Government Code. With the exception of basic information, which must be released, the sheriff's office may withhold Exhibit 3A under section 552.108(a)(1) of the Government Code. The sheriff's office must withhold (1) the information we have marked in Exhibit 3D under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code, (2) the biometric identifiers we have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code, (3) the submitted L-3 declaration form we have marked under section 552.101 of the Government Code in conjunction with former section 1701.306 of the Occupations Code, (4) the polygraph information we have marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code, and (5) the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must withhold the date of birth you have redacted and the dates of birth we have marked under section 552.102(a) of the Government Code. If the individuals at issue are currently licensed peace officers as defined by article 2.12 of the Code of Criminal Procedure, the sheriff's office must withhold the information you have redacted and the information we have marked under section 552.117(a)(2) of the Government Code; however, the sheriff's office may only withhold the marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body. If the individuals at issue are no longer certified peace officers and made timely elections under section 552.024 of the Government Code, the

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[12]Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* Open Records Decision No. 684 (2009).

sheriff's office must withhold the information you have redacted and the information we have marked under section 552.117(a)(1) of the Government Code; however, the sheriff's office may only withhold the marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body. The sheriff's office must withhold the motor vehicle record information you have redacted and the information we have marked under section 552.130 of the Government Code. The sheriff's office must withhold the e-mail address you have redacted and the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure. The sheriff's office must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.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,

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

Ref: ID# 542306

Enc. Submitted documents

c: Requestor
(w/o enclosures)