



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 12, 2015

Ms. Leah Simon Hayes
Counsel for the City of Valley Mills
Bojorquez Law Firm, P.L.L.C.
12325 Hymeadow Drive, Suite 2-100
Austin, Texas 78750

OR2015-09225

Dear Ms. Hayes:

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# 563134.

The City of Valley Mills (the "city"), which you represent, received two requests from the same requestor for the police report pertaining to case number 15-01005 and the personnel files of two former city police officers. You state the city will make available some of the requested information with redactions pursuant to section 552.117 of the Government Code.¹ You claim the remaining requested information is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, and 552.122 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹Open Records Decision No. 670 (2001) 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. ORD 670 at 6.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Initially, we note the information at issue contains peace officers' Texas Commission on Law Enforcement ("TCOLE") identification numbers.³ 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 TCOLE's electronic database, and may be used as an access device number on the TCOLE website. Accordingly, we find the officers' TCOLE identification numbers in the submitted information do not constitute public information under section 552.002 of the Government Code. Therefore, the TCOLE identification numbers are not subject to the Act and need not be released to the requestor.⁴

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 information protected by other statutes, such as the Americans with Disabilities Act of 1990 (the "ADA"). *See* 42 U.S.C. §§ 12101-12213. The ADA provides that a covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination provided that information about the medical conditions and medical histories of applicants or employees must be 1) collected and maintained on separate forms, 2) kept in separate medical files, and 3) treated as a confidential medical record. *See id.* § 12112(d)(3)(B); *see also* 29 C.F.R. § 1630.14(b); Open Records Decision No. 641 (1996).

A portion of the submitted information consists of a "Pre-Employment Medical Examination." Upon review, we find the city must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with the ADA.⁵

Section 552.101 of the Government Code also encompasses section 6103(a) of title 26 of the United States Code, which makes tax return information confidential. *See* Attorney General Opinion H-1274 (1978) (tax returns); Open Records Decision No. 600 (1992) (W-4 forms). Section 6103(b) defines the term "return information" as follows:

³The 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.

⁴As we are able to make this determination, we need not address your remaining arguments against the disclosure of this information.

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

a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, . . . or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary [of the 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[.]

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). Upon review, we find the submitted information contains W-4 forms which constitute confidential tax return information under section 6103(a). Thus, the city must withhold the submitted W-4 forms under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code.

Section 552.101 of the Government Code also encompasses section 1324a of title 8 of the United States Code. Section 1324a governs I-9 forms and their related documents. This section provides an I-9 form and "any information contained in or appended to such form, may not be used for purposes other than for enforcement of this chapter" and for enforcement of other federal statutes governing crime and criminal investigations. *See* 8 U.S.C. § 1324a(b)(5); *see also* 8 C.F.R. § 274a.2(b)(4). Release of the submitted I-9 form in this instance would be "for purposes other than enforcement" of the referenced federal statutes. Accordingly, we conclude the submitted I-9 form and attachment, which we have marked, are confidential pursuant to section 1324a of title 8 of the United States Code; the city must withhold this information under section 552.101 of the Government Code in conjunction with federal law.

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 TCOLE under subchapter J of chapter 1701 of the Occupations Code. Section 1701.454 provides as follows:

- (a) All information submitted to the [TCOLE] under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code, unless the person resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses.
- (b) Except as provided by this subchapter, a [TCOLE] member or other person may not release information submitted under this subchapter.

Occ. Code § 1701.454. The submitted information includes information that was submitted to TCOLE pursuant to subchapter J of chapter 1701 of the Occupations Code. Furthermore, the submitted F-5 forms do not indicate the named officers resigned or were terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses. Therefore, the city must withhold the submitted F-5 forms, which we marked, under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code.

You raise section 217.7(i) of title 37 of the Texas Administrative Code in conjunction with section 552.101 of the Government Code for a portion of the remaining information. Section 217.7 of title 37 of the Texas Administrative Code provides, in part, as follows:

(f) When an individual licensed by [TCOLE] separates from appointment with an agency, the agency shall submit a report to [TCOLE] and to the licensee in the currently prescribed [TCOLE] format that reports the separation. The report shall be submitted no later than the seventh business day after the licensee resigns, retires, is terminated, or separates from the agency and if applicable, exhausts all administrative appeals available to the licensee.

...

(i) All information submitted under subsection (f) of this section is exempt from disclosure under the [Act], Texas Government Code Chapter 552, unless the individual resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses, and is subject to subpoena only in a judicial proceeding.

37 T.A.C. § 217.7(f), (i). You state portions of the remaining information consist of TCOLE required documents. Upon review, we find you have failed to demonstrate the remaining information at issue consists of a report submitted to TCOLE pursuant to subsection (f). Therefore, section 217.7 is not applicable to the remaining information, and the city may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses section 1701.306 of the Occupations Code, which pertains to L-2 Declaration of Medical Condition and L-3 Declaration of Psychological and Emotional Health forms required by TCOLE. Section 1701.306 provides the following:

(a) [TCOLE] may not issue a license to a person 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 blood test or other medical test.

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

Occ. Code § 1701.306(a)-(b). Upon review, we find the city must withhold the L-2 and L-3 forms we have marked under section 552.101 of the Government Code in conjunction with section 1701.306 of the Occupations Code.

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). However, section 560.002 of the Government Code provides, “[a] governmental body that possesses a biometric identifier of an individual . . . may not sell, lease, or otherwise disclose the biometric identifier to another person unless . . . the individual consents to the disclosure[.]” *Id.* § 560.002(1)(A). You do not inform us, and the submitted information does not indicate, section 560.002 permits disclosure of the fingerprint information. Thus, the city must withhold the fingerprints 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 chapter 411 of the Government Code, which deems confidential criminal history record information (“CHRI”) generated by the National Crime Information Center or by the Texas Crime Information Center. CHRI means “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *Id.* § 411.082(2). 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. *See* Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to the CHRI it generates. *Id.* at 10-12. 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. *See 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 of the Government Code in conjunction with Government Code chapter 411, subchapter F. Upon review, we find some of the remaining information, which we have marked, constitutes confidential CHRI. Accordingly, the city must withhold the marked CHRI under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law.⁶

Section 552.101 of the Government Code also encompasses the Medical Practice Act ("MPA"), subtitle B of title 3 of the Occupations Code, which governs release of medical records. Section 159.002 of the MPA provides, in relevant part:

- (a) A communication between a physician and a patient, relative to or in connection with any professional services as a physician to the patient, is confidential and privileged and may not be disclosed except as provided by this chapter.
- (b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.
- (c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is acting on the patient's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Occ. Code § 159.002(a)-(c). Information subject to the MPA includes both medical records and information obtained from those medical records. *See id.* §§ 159.002, .004. This office has concluded the protection afforded by section 159.002 extends only to records created by either a physician or someone under the supervision of a physician. *See Open Records Decision Nos. 487 (1987), 370 (1983), 343 (1982).* Upon review, we find the information we have marked constitutes records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that were created or are maintained by a physician. Accordingly, the

⁶As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

city must withhold the information we marked under section 552.101 of the Government Code in conjunction with the MPA.

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 also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate or embarrassing. *See generally* Open Records Decision Nos. 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). This office has concluded public employees may have a privacy interest in their drug test results. *See* Open Records Decision Nos. 594 (1991) (suggesting identification of individual as having tested positive for use of illegal drug may raise privacy issues), 455 at 5 (1987) (citing *Shoemaker v. Handel*, 619 F. Supp. 1089 (D.N.J. 1985), *aff'd*, 795 F.2d 1136 (3rd Cir. 1986)). Although you claim common-law privacy for information relating to a drug test administered to a police officer, this office has determined the public generally has a legitimate interest in public employment and public employees, particularly those who are involved in law enforcement. *See* Open Records Decision No. 444 at 6 (1986) (public has genuine interest in information concerning law enforcement employee's qualifications and performance and circumstances of his termination or resignation).

Upon review, we find some of the information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information at issue is highly intimate or embarrassing and of no legitimate public interest. Accordingly, none of the remaining information may be withheld under section 552.101 on the basis of 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). Upon review, we find the city must withhold the dates of birth we have marked under section 552.102(a) of the Government Code.

You seek to withhold the police offense report submitted in Exhibit B under section 552.108(a)(1) of the Government Code, which excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) 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).

You state Exhibit B relates to a pending criminal investigation. Based upon this representation and our review, we find the city has demonstrated the release of the information at issue 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).

As you acknowledge, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which must be released, the city may withhold Exhibit B under section 552.108(a)(1) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home addresses, current and former 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 or section 552.1175 of the Government Code.⁷ Gov’t Code § 552.117(a)(2). Section 552.117(a)(2) also encompasses a personal cellular telephone number, provided a governmental body does not pay for the cellular telephone service. *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). But 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

⁷“Peace officer” is defined by article 2.12 of the Texas Code of Criminal Procedure.

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).

In this instance, it is unclear whether the information we have marked pertains to currently licensed peace officers as defined by article 2.12. Accordingly, if the individuals whose information is at issue are currently licensed peace officers as defined by article 2.12, then the city must withhold the information we have marked under section 552.117(a)(2) of the Government Code; however, the city may only withhold the marked cellular telephone numbers under section 552.117(a)(2) of the Government Code if the cellular telephone service was not paid for by a governmental body. Otherwise, the city may not withhold the information at issue under section 552.117(a)(2).

If the individuals whose information is at issue are not licensed peace officers, then their personal information may be subject to section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a)(1). As noted above, an individual's personal post office box number is not a "home address" for purposes of section 552.117. Section 552.117(a)(1) also encompasses a personal cellular telephone number, provided a governmental body does not pay for the cellular telephone service. *See* ORD 506 at 5-6. 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). Consequently, the marked information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Therefore, if the individuals whose information is at issue are not currently licensed police officers but timely requested confidentiality under section 552.024, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code; however, the city may only withhold the marked cellular telephone numbers under section 552.117(a)(1) of the Government Code if the cellular telephone service was not paid for by a governmental body. Otherwise, the city may not withhold the information at issue under section 552.117(a)(1).

Section 552.1175 of the Government Code excepts from disclosure 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.⁸ Gov't Code § 552.1175. Section 552.1175 applies, in part, to

⁸The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470(1987).

peace officers as defined by Article 2.12, Code of Criminal Procedure and employees of a district attorney or criminal district attorney. *Id.* § 552.1175(a)(1), (5). Section 552.1175 also encompasses a personal cellular telephone number, provided a governmental body does not pay for the cellular telephone service. *See* ORD 506 at 5-6. Upon review, we find the information we have marked pertains to individuals who may be peace officers employed by other law enforcement agencies. Thus, if the information we have marked under section 552.1175 pertains to currently licensed peace officers, and these individuals elect to restrict access to this information in accordance with section 552.1175(b), then the city must withhold the marked information under section 552.1175 of the Government Code; however, to the extent the telephone numbers we have marked consist of personal cellular telephone numbers, the city may only withhold such telephone numbers under section 552.1175 if the cellular telephone service was not paid for by a governmental body. If the individuals at issue are not currently licensed peace officers, or if no election is made, the city may not withhold this information under section 552.1175 of the Government Code.

You seek to withhold some of the remaining information under section 552.122(b) of the Government Code, which excepts from disclosure “[a] test item developed by a . . . governmental body[.]” Gov’t Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined the term “test item” in section 552.122 includes “any standard means by which an individual’s or group’s knowledge or ability in a particular area is evaluated,” but does not encompass evaluations of an employee’s overall job performance or suitability. ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You claim some of the submitted information consists of “specialized law enforcement training test questions and answers[.]” the release of which “could undermine the integrity of the [police] department’s use of specialized law enforcement tactics and interfere with the proper investigation and prosecution of crime.” Having considered your arguments and reviewed the submitted information, we find you failed to demonstrate any of the information at issue qualifies as a test item under section 552.122(b) of the Government Code. Therefore, the city may not withhold any of the submitted information under section 552.122 of the Government Code.

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. The city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code provides, “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act],” unless the owner of the e-mail address has affirmatively consented to its release or the e-mail address is specifically excluded by subsection (c). *Id.* § 552.137(a)–(c). Section 552.137 does not apply to an institutional e-mail address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, an e-mail address of a vendor who seeks to contract with a governmental body, an e-mail address maintained by a governmental entity for one of its officials or employees, or an e-mail address provided to a governmental body on a letterhead. *See id.* § 552.137(c). Upon review, we conclude the city must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to public disclosure.

Section 552.140 of the Government Code provides a military veteran’s DD-214 form or other military discharge record that is first recorded with, or that otherwise first comes into the possession of, a governmental body on or after September 1, 2003, is confidential for a period of seventy-five years and may only be disclosed in accordance with section 552.140 or in accordance with a court order. *See id.* § 552.140(a)-(b). Upon review, we find the city came into possession of the military discharge record we marked after September 1, 2003. Thus, the city must withhold the military discharge record we marked under section 552.140 of the Government Code.

In summary, the officers’ TCOLE identification numbers are not subject to the Act and need not be released to the requestor. The city must withhold (1) the information we have marked under section 552.101 of the Government Code in conjunction with the ADA; (2) the submitted W-4 forms under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code; (3) the submitted I-9 form and attachment, which we have marked, under section 552.101 of the Government Code in conjunction with section 1324a of title 8 of the United States Code; (4) the marked F-5 forms under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code; (5) the marked L-2 and L-3 forms under section 552.101 of the Government Code in conjunction with section 1701.306 of the Occupations Code; (6) the fingerprints we have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code; (7) the marked CHRI under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law; (8) the information we marked under section 552.101 of the Government Code in conjunction with the MPA; (9) the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; and (10) the dates of birth we have marked under section 552.102(a) of the Government Code. With the exception of basic information, which must be released, the city may withhold Exhibit B under section 552.108(a)(1) of the Government Code. If the individuals whose information is at issue are currently licensed peace officers as defined by article 2.12, then the city must withhold the information we have marked under section 552.117(a)(2) of the Government

Code; however, the city may only withhold the marked cellular telephone numbers under section 552.117(a)(2) of the Government Code if the cellular telephone service was not paid for by a governmental body. If the individuals whose information is at issue are not currently licensed police officers but timely requested confidentiality under section 552.024, the city must withhold the information we have marked under section 552.117(a)(1) of the Government Code; however, the city may only withhold the marked cellular telephone numbers under section 552.117(a)(1) of the Government Code if the cellular telephone service was not paid for by a governmental body. If the information we marked under section 552.1175 pertains to currently licensed peace officers, and these individuals elect to restrict access to this information in accordance with section 552.1175(b), then the city must withhold the marked information under section 552.1175 of the Government Code; however, to the extent the telephone numbers we have marked consist of personal cellular telephone numbers, the city may only withhold such telephone numbers under section 552.1175 if the cellular telephone service was not paid for by a governmental body. The city must withhold (1) the motor vehicle record information we have marked under section 552.130 of the Government Code; (2) the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to public disclosure; and (3) the marked military discharge record under section 552.140 of the Government Code. The city must release the remaining responsive 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 563134

Enc. Submitted documents

c: Requestor
(w/o enclosures)