



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 20, 2010

Ms. Katie Lentz  
Open Records  
William County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2010-12723

Dear Ms. Lentz:

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# 389566.

The Williamson County Sheriff's Office (the "sheriff") received two requests for several categories of information concerning the requestor, including information pertaining to an alleged aggravated assault with a deadly weapon and an alleged filing of a false report, as well as information concerning the sheriff's policies and procedures for investigating an alleged crime and information concerning complaints against employees the requestor came in contact with on specified dates. You claim that some of the responsive information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.1175, 552.130, 552.137, 552.147, and 552.151 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

We note the submitted information contains documents that have been filed with a court. Court-filed documents are expressly public under section 552.022(a)(17) of the Government

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<sup>1</sup>We assume that 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.

Code. Such information must be released unless it is expressly confidential under other law. You claim some of the court-filed documents are excepted from disclosure under section 552.108 of the Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's interests and is, therefore, not "other law" for purposes of section 552.022(a)(17). *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Thus, the court-filed documents at issue, which we have marked, may not be withheld under section 552.108. We also note that information that is otherwise confidential under common-law privacy may not be withheld if it is contained in a court-filed document. *See Star-Telegram v. Walker*, 834 S.W.2d 54 (Tex. 1992) (sexual assault victim's privacy right not violated by release of information in public court document). Accordingly, the sheriff may not withhold any information in the court-filed documents under common-law privacy. However, because information subject to section 552.022(a)(17) may be withheld under section 552.130, we will consider the applicability of this exception to the court-filed documents. We will also consider the sheriff's claimed exceptions for the information not subject to section 552.022(a)(17).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which provides in 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:

(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.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential

under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

Fam. Code § 261.201(a), (k). You assert that the information you have marked is excepted from disclosure under section 261.201(a). Upon review, we find that the information you have marked was used or developed in investigations of alleged or suspected child abuse under chapter 261 of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 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, therefore, conclude this information is generally confidential under section 261.201.

We note that information may not be withheld on the basis of section 261.201(a) from a parent of a child who was the victim of alleged or suspected abuse or neglect, unless the parent is alleged to have committed the abuse or neglect. *See id.* § 261.201(k). We note that although the requestor is the parent of the child victim who is the subject of the information at issue, the requestor is alleged to have committed the alleged abuse or neglect. Accordingly, as you do not inform us that the sheriff has adopted a rule that governs the release of this type of information, the sheriff must withhold the information you have marked under section 552.101 in conjunction with section 261.201(a) of the Family Code.

Section 552.101 of the Government Code also encompasses section 550.065(b) of the Transportation Code, which states that except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *See* Transp. Code § 550.065. Section 550.065(c)(4) provides for the 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). We note the requestor has not provided the sheriff with the requisite pieces of information specified by the statute. Accordingly, the sheriff must withhold the CR-3 accident report you have marked, as well as the CR-3 accident report we have marked, under section 552.101 in conjunction with section 550.065(b) of the Transportation Code.<sup>2</sup>

Section 552.101 of the Government Code also encompasses section 560.003 of the Government Code, which provides that “[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). Section 560.002 of the Government Code provides,

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments for this information.

however, that “[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). We note the requestor has a right of access to her own fingerprints. *See id.* § 560.002(1). Accordingly, we find that the sheriff must release the requestor’s fingerprints to her pursuant to section 560.002(1)(A). The sheriff must withhold the fingerprints that belong to individuals other than the requestor, which you have marked, under section 552.101 in conjunction with section 560.003 of the Government Code.

Section 552.101 of the Government Code also encompasses laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. 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 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI the Texas Department of Public Safety (“DPS”) maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See 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. Similarly, 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. *See id.* § 411.082(2)(B) (term CHRI does not include driving record information). However, 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). Accordingly, the sheriff must withhold the CHRI we have marked, as well as the information you have marked, except as we have marked for release, under section 552.101 in conjunction with chapter 411 and federal law.<sup>3</sup>

Section 552.101 of the Government Code also encompasses chapter 611 of the Health and Safety Code. Section 611.002 provides in part:

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<sup>3</sup>We note that an individual may obtain her own CHRI from DPS. *See Gov’t Code* § 411.083(b)(3).

(a) Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.

(b) Confidential communications or records may not be disclosed except as provided by Section 611.004 or 611.0045.

Health and Safety Code § 611.002(a)-(b); *see also id.* § 611.001 (defining “patient” and “professional”). Sections 611.004 and 611.0045 of the Health and Safety Code provide for access to information that section 611.002 makes confidential only by certain individuals. *See id.* §§ 611.004, .0045; ORD 565. We have marked mental health records that are confidential under section 611.002 of the Health and Safety Code. These records may only be released in accordance with sections 611.004 and 611.0045 of the Health and Safety Code.

Section 552.101 of the Government Code also encompasses section 258.102 of the Occupations Code, which provides in pertinent part:

(a) The following information is privileged and may not be disclosed except as provided by this subchapter:

- (1) a communication between a dentist and a patient that relates to a professional service provided by the dentist; and
- (2) a dental record.

Occ. Code § 258.102(a). A “dental record” means dental information about a patient that is created or maintained by a dentist and relates to the history or treatment of the patient. *See id.* § 258.101(1). Information that is privileged under chapter 258 of the Occupations Code may be disclosed only under certain specified circumstances. *See id.* § 258.104 (consent to disclosure); *see also id.* §§ 258.105, .106, .107 (exceptions to privilege). A person who receives information that is privileged under section 258.102 of the Occupations Code may disclose that information to another person only to the extent that disclosure is consistent with the purpose for which the information was obtained. *See id.* § 258.108. We have marked dental records that are privileged under section 258.102 of the Occupations Code. The marked dental records may only be released in accordance with chapter 258 of the Occupations Code.

Section 552.101 of the Government Code also encompasses section 159.002 of the Medical Practice Act (the “MPA”), subtitle B of title 3 of the Occupations Code, which provides in part:

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

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

*Id.* § 159.002(b)-(c). Information that is subject to the MPA includes both medical records and information obtained from those medical records. *See id.* §§ 159.002, .004; Open Records Decision No. 598 (1991). This office has concluded that 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). We note the submitted information includes the requestor's medical records, as well as the medical records of other individuals. Medical records must be released upon the patient's signed, written consent, provided that the consent specifies (1) the information to be covered by the release, (2) the reasons or purposes for the release, and (3) the person to whom the information is to be released. Occ. Code §§ 159.004, .005. Section 159.002(c) also requires that any subsequent release of medical records be consistent with the purposes for which the governmental body obtained the records. ORD 565 at 7. We have marked medical records that may only be released in accordance with the MPA.

Section 552.101 of the Government Code also encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release 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 (Tex. 1976). This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). This office also has found a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U. S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, records related to routine traffic violations are not considered criminal history record information. *See* Gov't Code § 411.082(2)(B) (CHRI does not include driving information). Furthermore, an individual's current

involvement in the criminal justice system, including active warrant information, does not constitute CHRI for the purposes of section 552.101. Upon review, we find that portions of the remaining information are highly intimate or embarrassing and not of legitimate public concern. Accordingly, the sheriff must withhold the information we have marked, as well as the information you have marked, except as we have marked for release, under section 552.101 in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses constitutional privacy. Constitutional privacy consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently and (2) an individual's interest in avoiding disclosure of personal matters. ORD 455 at 4. The first type protects an individual's autonomy within "zones of privacy," which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual's privacy interests and the public's need to know information of public concern. *Id.* The scope of information protected is narrower than that under the common-law doctrine of privacy; the information must concern the "most intimate aspects of human affairs." *Id.* at 5 (citing *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)). In Open Records Decision No. 430 (1985), our office determined a list of inmate visitors is protected by constitutional privacy because people have a First Amendment right to correspond with prisoners, and the release of that information would threaten that right. Accordingly, the sheriff must withhold the inmate visitor information you have marked under section 552.101 in conjunction with constitutional privacy.

You assert some of the remaining information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108 provides in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

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

(2) it is information that the 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 [required public disclosure] 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). A governmental body claiming subsection 552.108(a)(1) or subsection 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the incident reports, and their corresponding CDs and DVDs, you have marked under section 552.108(a)(1) relate to pending criminal cases. Based on your representation and our review, we conclude that 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), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, we find that section 552.108(a)(1) is generally applicable to the incident reports, and their corresponding CDs and DVDs, you have marked.

However, you do not inform us that the portions of the “General Orders, Policies and Procedures” and “Correction Bureau Directive” you marked pertain to an ongoing criminal investigation or prosecution. You have also not explained how the remaining information you have marked under section 552.108(a)(1) pertains to an ongoing criminal investigation or prosecution. You have failed to explain how the release of any of the remaining information you have marked would interfere in some way with the detection, investigation, or prosecution of crime. Thus, the sheriff may not withhold the portions of the “General Orders, Policies and Procedures” and “Correction Bureau Directive” you marked or any other portion of the remaining information you have marked under section 552.108(a)(1) of the Government Code. However, because you also assert section 552.108(b)(1), we will address its applicability to the information at issue.

Section 552.108(b)(1) encompasses internal law enforcement and prosecution records, the release of which would interfere with ongoing law enforcement and prosecution efforts in general. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). This office has concluded that this provision protects certain kinds of information, the disclosure of which might compromise the security or operations of a law enforcement agency. *See, e.g.,* Open Records Decision Nos. 531 (1989) (detailed guidelines regarding

police department's use of force policy), 508 (1988) (information relating to future transfers of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution). To claim section 552.108(b)(1), a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). Further, commonly known policies and techniques may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force are not protected under section 552.108), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known with law enforcement and crime prevention). To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984). We find the sheriff has demonstrated that release of some of the information you have marked in the "General Orders, Policies and Procedures" and "Correction Bureau Directive" would interfere with law enforcement and crime prevention. Accordingly, the sheriff may withhold the information you have marked in these manuals, except as we have marked for release, under section 552.108(b)(1) of the Government Code. Furthermore, we find the sheriff has failed to demonstrate that release of the remaining information at issue would interfere with law enforcement and crime prevention, and none of the remaining information at issue, which we have marked, may be withheld under section 552.108(b)(1).

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. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *Id.* You state that the incident reports that you have marked under section 552.108(a)(2) pertain to criminal investigations that did not result in conviction or deferred adjudication. Based on your representations and our review, we find that section 552.108(a)(2) is generally applicable to the incident reports, and their corresponding CDs and DVDs, you have marked.

We note, however, that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. *Id.* § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the sheriff may withhold the incident reports, and their corresponding CDs and

DVDs, you have marked under sections 552.108(a)(1) and 552.108(a)(2) of the Government Code.<sup>4</sup>

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, personal pager and cellular telephone numbers, social security number, and family member information of a peace officer, regardless of whether the peace officer complies with sections 552.024 or 552.1175. Gov't Code § 552.117(a)(2). An individual's personal post office box number is not a "home address" and, therefore, may not be withheld under section 552.117. *See id.* § 552.117; Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of section 552.117 is to protect public employees from being harassed *at home*) (citing House Committee on State Affairs, Bill Analysis, H.B. 1979, 69th Leg. (1985)) (emphasis added). We note that section 552.117 is applicable only to a personal pager or cellular phone number paid for by the peace officer. *See* Open Records Decision No. 670 at 6 (2001) (statutory predecessor to section 552.117(a)(2) encompassed personal cellular phone numbers and personal pager numbers of peace officers who purchased cellular or pager service with their personal funds). We also note section 552.117 does not protect a governmental employee's work telephone number. Furthermore, the protection afforded by section 552.117 does not extend to information relating to a deceased family member. *Cf.* Attorney General Opinions JM-229 (1984), H-917 (1976) ("We are . . . of the opinion that the Texas courts would follow the almost uniform rule of other jurisdictions that the right of privacy lapses upon death."); Open Records Decision No. 272 (1981). Section 552.117(a)(2) adopts the definition of peace officer found at article 2.12 of the Code of Criminal Procedure. To the extent that the information we have marked under section 552.117, as well as the information you have marked, except as we have marked for release, relates to a peace officer employed by the sheriff, this information must be withheld under section 552.117(a)(2).

To the extent that the information marked under section 552.117(a)(2) does not relate to a peace officer employed the sheriff, the information may be excepted from disclosure under section 552.117(a)(1). Section 552.117(a)(1) excepts the home address and telephone number, social security number, and family member information of a current or former employee of a governmental body who requests that this information be kept confidential under section 552.024. The determination of whether a particular item of information is protected by section 552.117(a)(1) must be made at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, the sheriff may only withhold information 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 of the sheriff's receipt of the request for the information. The sheriff may not withhold information under section 552.117(a)(1) on behalf of a current or former employee who did not make a timely election for confidentiality under section 552.024. To

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<sup>4</sup>As our ruling is dispositive for the information you have marked under section 552.108(a)(2), we need not address your remaining arguments for this information.

the extent the marked information relates to a current or former employee who timely elected confidentiality under section 552.024, the marked information must be withheld under section 552.117(a)(1).

Section 552.1175 of the Government Code also may be applicable to some of the remaining information. This section provides in part:

(a) This section applies only to:

- (1) peace officers as defined by Article 2.12, Code of Criminal Procedure;
- (2) county jailers as defined by Section 1701.001, Occupations Code;
- (3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department; and
- (4) commissioned security officers as defined by Section 1702.002, Occupations Code.

(b) Information that relates to the home address, home telephone number, 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)-(b). To the extent the marked information relates to a county jailer under section 1701.001 of the Occupations Code or a peace officer of another governmental entity, the sheriff must withhold this information under section 552.1175 if the individual to whom it pertains elects to restrict access to the information in accordance with section 552.1175(b).

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. *Id.* § 552.130(a)(1), (2). The sheriff must withhold the information we

have marked under section 552.130, as well as the information you have marked, except as we have marked for release.

We note portions of the remaining information are subject to section 552.136 of the Government Code, which provides “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”<sup>5</sup> *Id.* § 552.136(b). An access device number is one that may be used to (1) obtain money, goods, services, or another thing of value, or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number. *See id.* § 552.136(a) (defining “access device”). Accordingly, the sheriff must withhold the cellular service account number we have marked under section 552.136.

The remaining information contains personal e-mail addresses subject to section 552.137 of the Government Code. Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the 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 institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. The addresses we have marked do not appear to be of types specifically excluded by section 552.137(c). Accordingly, the sheriff must withhold the marked e-mail addresses under section 552.137, unless the owners of the addresses affirmatively consent to their release.<sup>6</sup> *See id.* § 552.137(b).

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). The sheriff may withhold the social security numbers you have marked in the remaining information under section 552.147.<sup>7</sup>

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<sup>5</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>6</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number and a Texas license plate number under section 552.130 of the Government Code and an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>7</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

Finally, you seek to withhold the name of an undercover narcotics officer from the remaining information under section 552.151 of the Government Code. This section provides in part:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

*Id.* § 552.151. You represent to this office that release of the name of the undercover narcotics officer would subject the officer to a “substantial threat of physical harm.” Based on your representation, we find that the sheriff has demonstrated that release of the information at issue would subject the officer to a substantial threat of physical harm. We therefore conclude that the sheriff must withhold the officer’s name, which you have marked, under section 552.151.

In summary, in conjunction with section 552.101 of the Government Code, the sheriff must withhold (1) the information you have marked under section 261.201(a) of the Family Code; (2) the marked CR-3 accident reports under section 550.065(b) of the Transportation Code; (3) the fingerprints that belong to individuals other than the requestor under section 560.003 of the Government Code; and (4) the CHRI we have marked, as well as the information you have marked, except as we have marked for release, under chapter 411 and federal law; (5) the information we have marked, as well as the information you have marked, except as we have marked for release, under common-law privacy, and (6) the information you have marked under constitutional privacy. The sheriff may only release the mental health records, dental records, and medical records we have marked in accordance with sections 611.004 and 611.0045 of the Health and Safety Code, chapter 258 of the Occupations Code, and the MPA, respectively. With the exception of basic information, the sheriff may withhold the incident reports, and their corresponding CDs and DVDs, you have marked under sections 552.108(a)(1) and 552.108(a)(2) of the Government Code. With the exception of the information we have marked for release, the sheriff may withhold the portions of the “General Orders, Policies and Procedures” and “Correction Bureau Directive” you have marked under section 552.108(b)(1) of the Government Code. To the extent it pertains to a peace officer, the sheriff must withhold the information we have marked, as well as the information you have marked, except as we have marked for release, pursuant to section 552.117(a)(2) of the Government Code; however, any cellular telephone or pager numbers may only be withheld if the licensed peace officer pays for the service with his own funds. To the extent the marked information pertains to employees who timely elected to keep their personal information confidential, the sheriff must withhold the marked personal information under section 552.117(a)(1) of the Government Code. To the extent the marked information relates to a county jailer or peace officer of another governmental entity who elects to restrict access to the information in accordance with section 552.1175(b) of the Government Code, the marked information must be withheld under section 552.1175 of the

Government Code. The sheriff must withhold the information we have marked under section 552.130 of the Government Code, as well as the information you have marked, except as we have marked for release. The sheriff must withhold the cellular service account number we have marked under section 552.136 of the Government Code and the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the addresses affirmatively consent to their release. The sheriff may withhold the social security numbers you have marked under section 552.147 of the Government Code. The sheriff must withhold the information you have marked under section 552.151 of the Government Code. The remaining information must be released.<sup>8</sup>

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/jb

Ref: ID# 389566

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>8</sup>Because the records being released contain information relating to the requestor that would be excepted from disclosure to the general public in order to protect the requestor's privacy, the sheriff must request another ruling from our office if it receives a future request for this information from an individual other than this requestor or her authorized representative. See Gov't Code § 552.023(b).