



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 8, 2011

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2011-12946

Dear Ms. Byles:

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# 427973 (PIR No. W008796).

The Fort Worth Police Department (the "department") received a request for (1) a copy of the personnel files of eight named individuals; (2) any memos, IOCs, letters, correspondence, and e-mails related to the employment, internal affairs investigation, and suspension or termination of a named individual; (3) a copy of the internal affairs investigations conducted on three named individuals; (4) a copy of an investigation conducted by a named individual; (5) all e-mails sent or received by six named individuals during specified time periods; (6) a copy of all the audio recordings from specified meetings; (7) a copy of all letters drafted for disciplinary action against three named individuals in preparation for these meetings; and (8) all letters issued to three named individuals on a specified date.¹ You state some of the requested information will be released. You inform us you only have e-mails for four of the individuals named in categories two and five. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, 552.103, 552.107, 552.108, and 552.111 of the Government Code.² We also understand you to raise

¹You state, and provide documentation showing, the requestor modified the original request for information.

²Although you raise section 552.101 of the Government Code in conjunction with Texas Rule of Evidence 503, this office has concluded that section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Furthermore, although you assert the attorney-client privilege under Texas Rule of Evidence 503 and the attorney work-product privilege under Texas Rule of Civil Procedure 192.5, we note none of the information for which you claim these privileges is subject to section 552.022 of the Government Code. Thus, sections 552.107 and 552.111 of the Government Code are

sections 552.117, 552.130, and 552.136 of the Government Code. Additionally, you state you have notified the Tarrant County District Attorney's Office and North Richland Hills Police Department of the request and of their opportunity to submit comments to this office. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released). As of the date of this decision, this office has not received correspondence from either of these governmental bodies. We have considered your arguments and reviewed the submitted representative samples of information.³

Initially, you inform us that some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2011-10953 (2011). In that decision, we ruled that, among other things, portions of the information at issue were excepted from disclosure under sections 552.101, 552.102, 552.117, and 552.137 of the Government Code. You do not indicate there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the department must continue to rely on Open Records Letter No. 2011-10953 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling. ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the requested information was not responsive to the previous request for information and is not encompassed by the prior ruling, we will consider your submitted arguments.

Next, we must address the department's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body that receives a request for information it wishes to withhold under the Act is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written

the proper exceptions to raise, respectively, for your attorney-client and work-product privilege claims in this instance. *See generally* ORD 676. Finally, although you claim that portions of the requested information are excepted from disclosure under section 552.305 of the Government Code, we note that section 552.305 is not an exception to disclosure; instead, it permits a governmental body to decline to release information for the purpose of requesting an attorney general decision if it believes that a person's privacy or property interests may be involved. *See* Gov't Code § 552.305(a); Open Records Decision No. 542 at 1-3 (1990) (discussing statutory predecessor).

³We 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 those records contain substantially different types of information than that submitted to this office.

request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). You state the department received the initial request for information on May 10, 2011, and a modified request for information on May 13, 2011. You further state you sent the requestor an itemized statement of charges on May 24, 2011, and you received the requestor's deposit on June 8, 2011. We note section 552.263(e) of the Government Code provides that a request for information is considered to have been received by a governmental body on the date the governmental body receives the deposit or bond for payment of anticipated costs. *See id.* § 552.263(e). Thus, pursuant to section 552.263(e), June 8, 2011, is the date the department received the request for purposes of section 552.301. Accordingly, the department's fifteen-business-day deadline was June 29, 2011. However, while you timely raised sections 552.101, 552.102, 552.103, 552.107, 552.108, 552.111, 552.117, 552.130, and 552.136 of the Government Code, your initial written comments and representative samples of the specific information requested were sent to this office in an envelope postmarked June 30, 2011. *See id.* § 552.308(a) (fifteen-business-day deadline met if governmental body's brief bears post office mark indicating time within fifteen-business-day period). Thus, we find the department failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). We note sections 552.103, 552.107, 552.108, and 552.111 of the Government Code are discretionary in nature. They serve only to protect a governmental body's interests, and may be waived; as such, they do not constitute compelling reasons to withhold information for purposes of section 552.302. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 676 at 11-12 (2002) (attorney-client privilege under section 552.107 subject to waiver), 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (waiver of discretionary exceptions), 470 at 6-7 (1987) (statutory predecessor to section 552.111 is discretionary exception), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Thus, no portion of the submitted information may be withheld under sections 552.103, 552.107, 552.108, or 552.111 of the Government Code. As you only raise sections 552.103 and 552.107 for Exhibit C-1, this exhibit must be released in its entirety. However, because sections 552.101, 552.102, 552.117, 552.130, and 552.136 of the Government Code can provide compelling reasons to withhold information, we will consider the applicability of your claims under these exceptions for Exhibits C-2 and F. We

note that portions of Exhibit C-2 are subject to section 552.137 of the Government Code, which can also provide a compelling reason to withhold information.⁴ Accordingly, we will also consider the applicability of section 552.137 to Exhibit -.

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 exception encompasses information that other statutes make confidential. You assert the information you have marked in Exhibit F consists of accident reports that are confidential under section 550.065(b) of the Transportation Code. 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. Transp. Code § 550.065(c)(4). Upon review, we find most of the information you have marked consists of ST-3 accident reports. We agree the requestor has not provided the department with two of the three requisite pieces of information specified by the statute. However, one of the documents at issue is not an accident report form completed pursuant to chapter 550 of the Transportation Code. Accordingly, the department must withhold the information you have marked in Exhibit F, except as we have marked otherwise, under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Section 552.101 also encompasses section 418.176 of the Texas Homeland Security Act (the “HSA”), chapter 418 of the Government Code. Section 418.176 provides in relevant part:

(a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

(1) relates to staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency [or]

(2) relates to a tactical plan of the provider[.]

Gov’t Code § 418.176(a)(1), (2). The fact that information may generally be related to emergency preparedness does not make the information *per se* confidential under the provisions of the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions controls scope of its protection). As with any confidentiality statute, a governmental body asserting this section must adequately explain how the responsive information falls within the scope of the provision. *See* Gov’t

⁴The 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).

Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You raise section 418.176 for portions of the information you marked in Exhibit C-2. You inform us this information relates to the staffing requirements and tactical plans of the department, a law enforcement agency. Upon review, however, we find you have failed to adequately explain how the marked information reveals staffing requirements or tactical plans that are related to the prevention, detection, response, or investigation of an act of terrorism or related criminal activity. Accordingly, the department may not withhold the information you have marked in Exhibit C-2 under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.

Section 552.101 also encompasses section 143.089 of the Local Government Code. We understand the City of Fort Worth is a civil service city under chapter 143 of the Local Government Code. Section 143.089 provides for the existence of two different types of personnel files relating to a police officer: a file that must be maintained as part of the officer's civil service file and another the police department may maintain for its own use. *See* Local Gov't Code § 143.089(a), (g). The officer's civil service file must contain certain specified items, including commendations, periodic evaluations by the police officer's supervisor, and documents relating to any misconduct in which the department took disciplinary action against the officer under chapter 143. *Id.* § 143.089(a)(1)-(2). Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *Id.* §§ 143.051-.055; *see* Attorney General Opinion JC-0257 (2000) (written reprimand is not disciplinary action for purposes of Local Gov't Code chapter 143). In cases in which a police department investigates a police officer's misconduct and takes disciplinary action against an officer, it is required by section 143.089(a)(2) to place all investigatory records relating to the investigation and disciplinary action, including background documents such as complaints, witness statements, and documents of like nature from individuals who were not in a supervisory capacity, in the police officer's civil service file maintained under section 143.089(a). *See Abbott v. Corpus Christi*, 109 S.W.3d 113, 122 (Tex. App.—Austin 2003, no pet.). All investigatory materials in a case resulting in disciplinary action are "from the employing department" when they are held by or are in the possession of the department because of its investigation into a police officer's misconduct, and the department must forward them to the civil service commission for placement in the civil service personnel file. *Id.* Such records may not be withheld under section 552.101 of the Government Code in conjunction with section 143.089 of the Local Government Code. *See* Local Gov't Code § 143.089(f); Open Records Decision No. 562 at 6 (1990).

However, a document relating to a police officer's alleged misconduct may not be placed in his civil service personnel file if there is insufficient evidence to sustain the charge of misconduct. Local Gov't Code § 143.089(b). Information that reasonably relates to a police officer's employment relationship with the police department and that is maintained in a police department's personnel file pursuant to section 143.089(g) is confidential and must

not be released. *City of San Antonio v. Tex. Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied).

You inform us that portions of Exhibit C-2 pertain to allegations of wrongdoing on the part of two officers that did not result in discipline. You represent this information is taken from the department's internal files for these officers. Upon review, we agree the information you have marked in Exhibit C-2, as well as the additional information you have indicated, constitutes information in the internal files maintained by the department for its own use and is confidential under section 143.089(g). Accordingly, this information must be withheld under section 552.101 of the Government Code. However, we note the information at issue includes documents pertaining to an officer who was indefinitely suspended at the conclusion of the investigation and prior to his resignation. Therefore, despite your assertions, we find the investigation pertaining to this officer resulted in disciplinary action against him. As noted above, an officer's civil service file must contain documents relating to any misconduct in those cases where the police department took disciplinary action against the officer. *See* Local Gov't Code § 143.089(a)(2); *see also id.* §§ 143.051-.052 (suspension and uncompensated duty are "disciplinary action[s]" for purposes of section 143.089(a)(2)). Thus, the information concerning the investigation of this officer must be maintained in this officer's civil service file pursuant to section 143.089(a)(2). Consequently, if you have not already done so, this information must also be placed in the officer's civil service file.⁵

Section 552.101 also encompasses section 1701.454 of the Occupations Code, which governs the public availability of information submitted to the Texas Commission on Law Enforcement Officer Standards and Education ("TCLEOSE") under subchapter J of chapter 1701 of the Occupations Code. Section 1701.454 provides as follows:

(a) All information submitted to [TCLEOSE] under this subchapter is confidential and is not subject to disclosure under 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 [TCLEOSE] member or other person may not release information submitted under this subchapter.

Act of May 23, 2011, 82nd Leg., R.S., S.B. 545, § 4 (to be codified as an amendment to Occ. Code § 1701.454). Exhibit F includes an F-5 Report of Separation of License Holder form that was submitted to TCLEOSE pursuant to subchapter J of chapter 1701 of the Occupations Code. Upon review of the submitted information, we find the officer at issue in this F-5 form was terminated due to a violation of law other than a traffic violation. Therefore, the

⁵We note that section 143.089(g) requires a police department that receives a request for information maintained in a file under section 143.089(g) to refer that person to the civil service director or the director's designee. If you have not already done so, you must refer the requestor to the civil service director at this time.

F-5 form in Exhibit F is not confidential under section 1701.454, and the department may not withhold it under section 552.101 of the Government Code on that basis.

You raise section 411.083 of the Government Code for a portion of Exhibit C-2. Section 552.101 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 Department of Public Safety (“DPS”) maintains, except DPS may disseminate this information as provided in subchapter F of chapter 411 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 subchapter F of chapter 411 of the Government Code. Upon review, we find the information we have marked in Exhibit C-2 consists of CHRI that is confidential under chapter 411 and federal law. Accordingly, the department must withhold this information under section 552.101 of the Government Code.⁶

You seek to withhold some of the remaining information in Exhibit C-2 under common-law privacy. Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is 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 established. *Id.* at 681-82. This office has determined that personal financial information not related to a transaction between an individual and a governmental body generally meets the first prong of the common-law privacy test. *See generally* Open Records Decision No. 600 (1992). Furthermore, this office has also found that a public employee’s allocation of part of the employee’s salary to a voluntary investment, health or other program offered by the employer is a personal investment decision, and information about that decision is protected by common-law privacy. *See, e.g.*, Open Records Decision Nos. 600 (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 (deferred

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

compensation information, participation in voluntary investment program, and election of optional insurance coverage). Upon review, we find the department must withhold the information we have marked in Exhibit C-2 under section 552.101 of the Government Code in conjunction with common-law privacy.

The remaining information in Exhibit C-2 contains the birth dates of current and former department employees. Section 552.102 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 recently 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. & The Dallas Morning News, Ltd.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010). Accordingly, the birth date you have marked in Exhibit C-2, in addition to the birth dates we have marked in Exhibit C-2, must be withheld under section 552.102(a) of the Government Code.

You have marked a portion of the remaining information in Exhibit C-2 under section 552.117 of the Government Code. 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 of the Government Code. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)(2)). 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). If the individuals at issue are currently licensed peace officers, the department must withhold the information you have marked in Exhibit C-2, and the additional information we have marked in Exhibit C-2, under section 552.117(a)(2) of the Government Code; however, the department may only withhold the marked cellular telephone number if this individual pays for the cellular telephone service with personal funds. If, however, these individuals are not currently licensed peace officers, their personal information may not be withheld under section 552.117(a)(2) of the Government Code.

However, if the individuals at issue are no longer licensed peace officers, then their personal information may be subject to section 552.117(a)(1) of the Government Code. This section 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. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)(1)). Whether a particular item of information is protected by section 552.117(a)(1) must be determined 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, 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 of the governmental body's receipt of the request for the information. Therefore, if any these individuals are no longer licensed peace officers, then to the extent they timely elected confidentiality under section 552.024, the department must withhold the information you have marked in Exhibit C-2, and the additional information we have marked in Exhibit C-2, under section 552.117(a)(1) of the Government Code; however, the department may only withhold the marked cellular telephone number if this individual pays for the cellular telephone service with personal funds. If, however, these individuals are no longer licensed peace officers and did not timely elect to keep their personal information confidential, the marked personal information may not be withheld under section 552.117.

The remaining information in Exhibit C-2 contains motor vehicle title and registration information that you have marked under section 552.130 of the Government Code. This section provides that information relating to a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(2)). Therefore, the department must withhold the vehicle identification number and license plate numbers you marked in Exhibit C-2 under section 552.130 of the Government Code.

The remaining information in Exhibit C-2 includes an insurance policy number that you have marked pursuant to section 552.136 of the Government Code. This section provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device 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.

(b) Notwithstanding 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.

Gov't Code § 552.136(a), (b). We conclude the insurance policy number at issue is an access device number for purposes of section 552.136. Thus, the department must withhold the insurance policy number you marked in Exhibit C-2 under section 552.136 of the Government Code.

Finally, the remaining information in Exhibit C-2 includes e-mail addresses of members of the public. 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 email address is of a type specifically excluded by subsection (c).

Id. § 552.137(a)-(c). The e-mail addresses are not specifically excluded by section 552.137(c). As such, the e-mail addresses, which we have marked, must be withheld under section 552.137 of the Government Code, unless the owners of the addresses have affirmatively consented to their release. *See id.* § 552.137(b).

In summary, in conjunction with section 552.101 of the Government Code, the department must withhold the information (1) you have marked in Exhibit F under section 550.065(b) of the Transportation Code, except as we have marked otherwise; (2) you have marked and indicated in Exhibit C-2 under section 143.089(g) of the Local Government Code; (3) we marked in Exhibit C-2 under chapter 411 and federal law; and (4) we have marked in Exhibit C-2 under common-law privacy. The birth dates marked in Exhibit C-2 must be withheld under section 552.102(a) of the Government Code. If the individuals whose information is marked in Exhibit C-2 under section 552.117 of the Government Code are currently licensed peace officers, the department must withhold this information under section 552.117(a)(2) of the Government Code; however, the department may only withhold the marked cellular telephone number if this individual pays for the cellular telephone service with personal funds. If, however, these individuals are not currently licensed peace officers, their personal information may not be withheld under section 552.117(a)(2). In that instance, to the extent these individuals timely elected confidentiality under section 552.024 of the Government Code, the department must withhold the information marked in Exhibit C-2 under section 552.117(a)(1) of the Government Code; however, the department may only withhold the marked cellular telephone number if this individual pays for the cellular telephone service with personal funds. The department must withhold the vehicle identification number and license plate numbers you marked in Exhibit C-2 under section 552.130 of the Government Code. The department must withhold the insurance policy number you marked in Exhibit C-2 under section 552.136 of the Government Code. Lastly, the department must withhold the e-mail addresses we marked in Exhibit C-2 under section 552.137 of the Government Code, unless the owners of the addresses have affirmatively consented to their release.⁷ The remaining information must be released.⁸

⁷We note this office 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 license plate number under section 552.130 of the Government Code, an insurance policy number under section 552.136 of the Government Code, and a personal e-mail address under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

⁸The remaining information contains information about an individual represented by the requestor that would be protected from disclosure by sections 552.102, 552.117, and 552.147 of the Government Code. *See* Gov't Code §§ 552.102(a), .117(a)(1), (2), .147(b). These sections protect personal privacy. Thus, because the requestor is his client's authorized representative, he has a right of access to this private information. *See* Gov't Code §§ 552.023(a) (person or person's authorized representative has special right of access, beyond

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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/agn

Ref: ID# 427973

Enc. Submitted documents

c: Requestor
(w/o enclosures)

right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests), .102(a) (stating employee's authorized representative has right of access to information about employee that is protected by section 552.102); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide her with information concerning herself). However, if the department receives another request for this particular information from a different requestor, then it should again seek a decision from this office.