



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 7, 2020

Ms. Tonda Curry
Criminal District Attorney
Van Zandt County
400 South Buffalo
Canton, Texas 75103

OR2020-13068

Dear Ms. Curry:

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# 827055.

Van Zandt County (the “county”) received a request for any and all records regarding ten named individuals. You state some of the requested information does not exist.¹ You claim some of the submitted information is not subject to the Act. You also claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, 552.147, and 552.152 of the Government Code.² We have considered the submitted arguments and reviewed the submitted information, some of which consists of representative samples.³

¹ The Act does not require a governmental body to create or release information that did not exist when a request for information was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

² Although the county raises section 552.1425 of the Government Code, we note this section is not an exception to disclosure. Rather, this section provides for civil penalties when a private entity disseminates certain criminal history record information. *See Gov’t Code* § 552.1425. Additionally, although the county also raises Texas Rule of Evidence 503, we note the proper exception to raise when asserting the attorney-client privilege for information not subject to section 552.022 of the Government Code, as in this case, is section 552.107 of the Government Code. *See Open Records Decision No. 676 at 1* (2002).

³ We 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

Initially, we understand you to contend that complying with a portion of the request for information would be too time consuming or burdensome. We note, however, that the administrative inconvenience of providing public records to a requestor in response to an open records request does not constitute sufficient grounds for denying such a request. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976). Additionally, we note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 at 8-9 (1990). Therefore, we find the county may not refuse to comply with this portion of the request on the basis that doing so would be burdensome.

Next, you argue some of the submitted information is not “public information” subject to disclosure under the Act. Section 552.002(a) of the Government Code defines “public information” as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information;
or
- (3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

Gov’t Code § 552.002(a). Section 552.002(a-1) also provides the following:

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer’s or employee’s official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

Id. § 552.002(a-1). Thus, virtually all the information in a governmental body’s physical

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.

possession constitutes public information and is subject to the Act. *Id.*; see Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). 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. You claim some of the submitted information is not public information subject to the Act. We understand a TCOLE identification number is a unique computer-generated number assigned to licensees for identification in TCOLE's electronic database and may be used as an access device number on the TCOLE website. Accordingly, we find the TCOLE identification number in the submitted information does not constitute public information under section 552.002 of the Government Code. Therefore, the TCOLE identification number is not subject to the Act, and the county need not release it to the requestor. However, upon review, we find the remaining information at issue was collected and is maintained by the county in connection with the transaction of official county business. Thus, the remaining information at issue is subject to the Act, and the county must release it unless it falls within an exception to public disclosure under the Act. See Gov't Code §§ 552.006, .021, .301, .302.

Next, you inform us the requested information includes police officers' body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661(a) of the Occupations Code provides the following:

A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- (1) the date and approximate time of the recording;
- (2) the specific location where the recording occurred; and
- (3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). In this instance, the requestor does not provide the requisite information under section 1701.661(a). As the body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released.⁴ However, pursuant to section 1701.661(b), a "failure to provide all the information required by [s]ubsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information." *Id.* § 1701.661(b).

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

Next, we must address the county's procedural obligations under the Act. Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). Further, pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written 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 id.* § 552.301(e). The county does not inform us when it received the request for information. However, the copy of the request that the county submitted is dated February 11, 2020. *See id.* § 552.301(e)(1)(C). You inform us the county was closed for business on February 17, 2020. Thus, the county's ten-business-day deadline under section 552.301(b) was February 26, 2020, and the county's fifteen-business-day deadline under section 552.301(e) was March 4, 2020. However, the envelope in which you provided the information required by section 552.301(b) bears a certified mail tracking number that indicates it was mailed on March 2, 2020. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Additionally, the envelope containing the information required by section 552.301(e) was received by this office on March 11, 2020, and the envelope does not bear a postmark date. Further, you have not provided sufficient evidence to establish the information was deposited in the mail within the fifteen-business-day deadline. *See id.* Consequently, we conclude the county failed to comply with the procedural requirements mandated by section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *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 (Tex. App.—Austin 1990, no writ). You claim sections 552.101, 552.103, 552.107, 552.108, 552.147, and 552.152 of the Government Code for the information at issue. Additionally, we note some of the information at issue is subject to section 552.101 of the Government Code in conjunction with common-law privacy and sections 552.102, 552.117, 552.130, and 552.136 of the Government Code.⁵ Although you claim section 552.101 of the Government Code in conjunction with the common-law

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

informer's privilege, we find you failed to establish a compelling reason to address this argument. However, as section 552.101 of the Government Code in conjunction with common-law privacy, your remaining arguments under section 552.101 of the Government Code, and sections 552.102, 552.107, 552.117, 552.130, 552.136, and 552.152 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the information at issue.⁶ Nonetheless, we find you failed to establish a compelling reason to address your remaining claimed exceptions.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 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.*, 540 S.W.2d at 685. 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. 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) (finding significant private interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, active warrant information or other information relating to an individual's current involvement in the criminal justice system does not constitute criminal history information for the purposes of section 552.101. *See* Gov't Code § 411.081(b) (police department allowed to disclose information pertaining to person's current involvement in the criminal justice system).

The present request requires the county to compile unspecified law enforcement records concerning the named individuals, thus implicating the named individuals' right to privacy. Accordingly, to the extent the county maintains unspecified law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the county must generally withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. However, information that refers to an individual solely as a victim, witness, or involved person is not part of a compilation of the individual's criminal history and may not be withheld under section 552.101 on that basis. We note the county has submitted information that does not list the named individuals as suspects, arrestees, or criminal defendants. This information does not consist of a

⁶ We note 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. *See* Gov't Code § 552.147(b).

compilation of the named individuals' criminal histories, and it may not be withheld under section 552.101 of the Government Code on that basis.

We note the requestor is a representative of the Gregg County Criminal District Attorney's Office (the "district attorney's office"). Section 411.089(a) of the Government Code provides a criminal justice agency is entitled to obtain from the Texas Department of Public Safety ("DPS") any criminal history record information ("CHRI") maintained by the DPS about a person. *See id.* § 411.089(a); *see also id.* § 411.083(b)(1) (DPS shall grant criminal justice agencies access to CHRI). In addition, section 411.087(a)(2) of the Government Code provides,

(a) [A] person, agency, department, political subdivision, or other entity that is authorized by this subchapter or subchapter E-1 to obtain from [DPS CHRI] maintained by [DPS] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

Id. § 411.087(a)(2). CHRI is defined as "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." *See id.* § 411.082(2). Thus, the requested information may contain CHRI. However, a criminal justice agency that receives CHRI from another criminal justice agency pursuant to section 411.087(a)(2) may receive such information only for a criminal justice purpose. *See id.* §§ 411.083(c), .087(b); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of CHRI). Therefore, to the extent the requestor represents a "criminal justice agency," the requestor is authorized to obtain CHRI from the county pursuant to section 411.087(a)(2) of the Government Code, but only for a criminal justice purpose. *See* Gov't Code §§ 411.083(c), .087(b).

We understand the requestor is a representative of a criminal justice agency that intends to use any CHRI, to the extent it exists, for a criminal justice purpose. Therefore, if the county maintains unspecified law enforcement records listing the named individuals as a suspect, arrested person, or criminal defendant, then the county must release to the requestor the CHRI from any such records, but must withhold any remaining information listing the named individuals as suspects, arrestees, or criminal defendants under section 552.101 of the Government Code in conjunction with common-law privacy. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common law only when statute directly conflicts with common-law principle); *CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd. Auth.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law).

Section 552.101 of the Government Code also encompasses section 418.182 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the “HSA”). Section 418.182(a) of the Government Code provides, in part, the following:

[I]nformation . . . in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

Gov’t Code § 418.182(a). The fact that information may be related to a security system does not make the information *per se* confidential under section 418.182. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute’s key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any confidentiality provision, a governmental body asserting section 418.182 must adequately explain how the responsive information falls within the scope of the statute. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The information at issue consists of consists of surveillance camera images from the Van Zandt County Justice Center (the “center”). You state the information at issue is part of the center’s security system and reveals the location of security surveillance cameras. You also state the security system is used to protect public property from criminal activity. Based upon these representations and our review of the information at issue, we conclude you have demonstrated the information at issue falls within the scope of section 418.182(a). Accordingly, the county must withhold Exhibit 11 under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code.⁷ *See generally* *Tex. Dep’t of Pub. Safety v. Abbott*, 310 S.W.3d 670 (Tex. App.—Austin 2010, no pet.) (case construing section 418.182 of the HSA, which ruled recorded images necessarily relate to specifications of security system that recorded them).

Section 552.101 of the Government Code also encompasses section 414.007 of the Government Code, which reads as follows:

A record relating to a tip received under Section 414.0015(a) maintained by the [Texas Crime Stoppers Council], a crime stoppers organization, a law enforcement agency, a school district, or an open-enrollment charter school, including the identity of the person who submitted the tip, is confidential and is not subject to disclosure under Chapter 552.

⁷ As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

Gov't Code § 414.007. Upon review, we find you have failed to demonstrate any of the remaining information at issue relates to a tip made to a crime stoppers organization pursuant to section 414.0015 of the Government Code. *See id.* § 414.001(2)(B) (defining "crime stoppers organization"); *see also id.* § 414.0015 (establishing procedures for accepting and forwarding crime stoppers tips). Therefore, the county may not withhold any of the remaining information at issue under section 552.101 of the Government Code in conjunction with 414.007 of the Government Code.

Section 552.101 of the Government Code also encompasses section 411.083 of the Government Code, which pertains to CHRI. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. As previously stated, 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 obtained from the federal government or other states. *See* Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual laws with respect to CHRI it generates. *See id.* Section 411.083 of the Government Code deems confidential CHRI DPS maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F or subchapter E-1, of the Government Code. *See* Gov't Code § 411.083(a). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 in conjunction with chapter 411, subchapter F, of the Government Code. Upon review, we find some of the information at issue consists of CHRI that is confidential under section 411.083. Accordingly, the county must withhold the CHRI we marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

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." *Id.* § 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). Thus, under *Texas Comptroller*, section 552.102(a) is applicable to the birth date of an employee of a governmental body in a record maintained by his or her employer in an employment context. Upon review, we find the county must withhold all current and former employees' dates of birth under section 552.102(a) of the Government Code.

As noted above, section 552.101 of the Government Code encompasses the doctrine of common-law privacy, which is subject to the two-prong test described above. *Indus. Found.*, 540 S.W.2d at 685. 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). The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101 of the Government Code. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied). (mem. op.). This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See, e.g.*, Open Records Decision Nos. 545 (1990) (common-law privacy protects mortgage payments, assets, bills, and credit history), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Upon review, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the county must withhold all public citizens' dates of birth and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. *See* Gov't Code § 552.107(1). When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. *See* ORD 676 at 6-7. First, a governmental body must demonstrate the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made "to facilitate the rendition of professional legal services" to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Tex. Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element. Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a *confidential* communication, *id.*, meaning it was "not intended to be disclosed to third persons other than those: (A) to whom disclosure is made to further the rendition of professional legal services to the client; or (B) reasonably necessary to transmit the communication." *Id.* 503(a)(5). Whether a communication meets this definition depends on the *intent* of the parties involved at the time the information was communicated. *See Osborne v. Johnson*,

954 S.W.2d 180, 184 (Tex. App.—Waco 1997, orig. proceeding). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

You state Exhibit 4 consists of a communication between attorneys for the county and county employees in their capacity as clients. You also state the communication was made in furtherance of the rendition of professional legal services to the county and these communications were intended to be and have remained confidential. Based upon your representations and our review, we find Exhibit 4 consists of privileged attorney-client communications. Accordingly, the county may withhold Exhibit 4 under section 552.107(1) of the Government Code.

Section 552.117(a)(2) of the Government Code applies to records a governmental body holds in an employment capacity and excepts from public disclosure the current and former home addresses and telephone numbers, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer made an election under section 552.024 or section 552.1175 of the Government Code. *See Gov't Code* § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. We have marked information under section 552.117 that consists of the personal information of an individual who was employed by the county and the information is held in the employment context. In this instance, however, it is unclear whether the individual whose information is at issue is currently a licensed peace officer as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, if the individual whose information is at issue is a currently-licensed peace officer, the county must withhold the information we marked under section 552.117(a)(2) of the Government Code.

If the individual at issue is not a currently-licensed peace officer, then section 552.117(a)(1) of the Government Code may protect the marked information. Section 552.117(a)(1) applies to records a governmental body holds in an employment capacity and 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 that this information be kept confidential under section 552.024 of the Government Code. *Id.* § 552.117(a)(1). 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)*. Therefore, a governmental body must withhold information under section 552.117 on behalf of a current or former official or employee only if the individual made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Accordingly, if the individual whose information is at issue is not a currently-licensed peace officer and he timely requested confidentiality pursuant to section 552.024 of the

Government Code, the county must withhold the information we marked under section 552.117(a)(1) of the Government Code. Conversely, to the extent the individual at issue did not timely request confidentiality under section 552.024, the county may not withhold the marked information under section 552.117(a)(1) of the Government Code.

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See Gov't Code § 552.130.* Accordingly, we find the county must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Accordingly, the county must withhold the bank account number we marked under section 552.136 of the Government Code.

Section 552.152 of the Government Code provides:

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. § 552.152. You inform us the remaining information identifies an undercover officer. We understand you to assert release of undercover officer's identity would subject the officer to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the identity of the undercover officer within the information at issue. Accordingly, the county must withhold the identifying information of the undercover officer we marked under section 552.152 of the Government Code.

In summary, the TCOLE identification number is not subject to the Act, and the county need not release it to the requestor. As the body worn camera recordings at issue were not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released. If the county maintains unspecified law enforcement records listing the named individuals as a suspect, arrested person, or criminal defendant, then the county must release to the requestor the CHRI from any such records, but must withhold any remaining information listing the named individuals as suspects, arrestees, or criminal defendants under section 552.101 of the Government Code in conjunction with common-law privacy. The county must withhold Exhibit 11 under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code. The county must withhold the CHRI we marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

The county must withhold all current and former employees' dates of birth under section 552.102(a) of the Government Code. The county must withhold all public citizens' dates of birth and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The county may withhold Exhibit 4 under section 552.107(1) of the Government Code. To the extent the individual whose information is at issue is a currently-licensed peace officer as defined by article 2.12 of the Code of Criminal Procedure, the county must withhold the information we marked under section 552.117(a)(2) of the Government Code. To the extent the individual whose information we marked is not a currently-licensed peace officer, but timely requested confidentiality under section 552.024 of the Government Code, the county must withhold the information we marked under section 552.117(a)(1) of the Government Code. The county must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. The county must withhold the account number we marked under section 552.136 of the Government Code. The county must withhold the identifying information of the undercover officer we marked under section 552.152 of the Government Code. The county must release the remaining information.

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/eb

Ref: ID# 827055

Enc. Submitted documents

c: Requestor
(w/o enclosures)