



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 13, 2022

Mr. Santos Hinojosa  
Assistant District Attorney  
Brazoria County  
111 East Locust, Suite 408A  
Angleton, Texas 77515

OR2022-13793

Dear Mr. Hinojosa:

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# 947265 (ORR# 22-0442).

Brazoria County (the "county") received a request for a specified internal affairs report, specified county policies, specified e-mail correspondence, and the requestor's client's personnel file. You indicate you will release some information. You claim some information is not subject to the Act. You also claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.117, 552.136, 552.137, and 552.147 of the Government Code.<sup>1</sup> We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the responsive information includes an officer's Texas Commission on Law Enforcement ("TCOLE") identification number. Section 552.002(a) of the Government Code defines "public information" as the following:

[I]nformation 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;

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<sup>1</sup> Although the county also raises section 552.1175 of the Government Code, we note section 552.117 of the Government Code is the proper exception to raise for information the county holds in its capacity as an employer.

(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). In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. We understand the officer's TCOLE identification number is a unique computer-generated number assigned to peace officers for identification in TCOLE's electronic database, and may be used as an access device number on the TCOLE website. Thus, we find the officer's TCOLE number does not constitute public information under section 552.002 of the Government Code. Therefore, the officer's TCOLE number is not subject to the Act and need not be released to the requestor.<sup>2</sup>

Next, we note some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

*Id.* § 552.022(a)(1). The submitted information includes completed evaluations that are subject to section 552.022(a)(1). The county must release the completed evaluations pursuant to section 552.022(a)(1) unless they are excepted from disclosure under section 552.108 of the Government Code or is made confidential under the Act or other law. *See id.* The county seeks to withhold the information subject to section 552.022(a)(1) under section 552.103 of the Government Code. However, section 552.103 is discretionary in nature and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.)

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<sup>2</sup> As we are able to make this determination, we need not address your remaining arguments against disclosure of this information.

(governmental body may waive Gov't Code § 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the county may not withhold the information subject to section 552.022 under section 552.103 of the Government Code. However, because sections 552.101, 552.117, 552.136, and 552.137 of the Government Code make information confidential under the Act, we will consider the applicability of these sections to the information at issue. Additionally, we will consider your arguments against disclosure of the information not subject to section 552.022.

Section 552.103 of the Government Code provides in relevant part as follows:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). A governmental body has the burden of providing relevant facts and documents to show section 552.103(a) is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation was pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *See Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, orig. proceeding); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, *writ ref'd n.r.e.*); Open Records Decision No. 551 at 4 (1990). A governmental body must meet both prongs of this test for information to be excepted under section 552.103(a). *See* ORD 551.

To establish litigation is reasonably anticipated, a governmental body must provide this office with "concrete evidence showing that the claim that litigation may ensue is more than mere conjecture." *See* Open Records Decision No. 452 at 4 (1986). Concrete evidence to support a claim that litigation is reasonably anticipated may include, for example, the governmental body's receipt of a letter, prior to its receipt of a request for information, containing a specific threat to sue the governmental body from an attorney for a potential opposing party. Open Records Decision No. 555 (1990); *see* Open Records Decision No. 518 at 5 (1989) (litigation must be "realistically contemplated"). On the other hand, this office has determined that if an individual publicly threatens to bring suit against a governmental body, but does not actually take objective steps toward filing suit, litigation is not reasonably anticipated. Open Records Decision No. 331 (1982). Further, the fact that a potential opposing party has hired an attorney who makes a request for information

does not establish that litigation is reasonably anticipated. Open Records Decision No. 361 (1983). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. ORD 452 at 4.

You assert the county reasonably anticipated litigation when it received the request because the requestor represents a former county employee who was terminated as a result of an internal affairs investigation. Upon review, however, we find the county has not demonstrated anyone had taken any concrete steps toward the initiation of litigation against the county or made any claim for damages or any specific threat to sue the county when it received the request for information. Consequently, we find you have failed to demonstrate the county reasonably anticipated litigation when it received the present request for information. As such, we conclude the county may not withhold any of the information at issue under section 552.103 of the Government Code.

Section 552.108 of the Government Code provides, in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

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

. . .

(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 the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). Section 552.108(a)(1) excepts from disclosure information if its release would interfere with a particular pending criminal investigation or prosecution. Section 552.108(b)(1) of the Government Code excepts from disclosure “[a]n 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 . . . if (1) release of the internal record or notation would interfere with law enforcement or prosecution[.]” *Id.* § 552.108(b)(1). You generally argue sections 552.108(a)(1) and 552.108(b)(1) of the Government Code for a portion of the remaining information. However, you do not inform us the information at issue pertains to a specific ongoing criminal investigation or prosecution, nor have you explained how its release would interfere with law enforcement. Thus, you have failed to demonstrate the applicability of section 552.108(a)(1) or section 552.108(b)(1) to the information at issue. Therefore, the county may not withhold any of the remaining information under section 552.108(a)(1) or section 552.108(b)(1) of the Government Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This exception encompasses section 6103(a) of title 26 of the United States Code. Prior decisions of this office have held section 6103(a) Code renders tax return

information confidential for purposes of section 552.101 of the Government Code. Open Records Decision Nos. 600 (1992) (W-4 forms). Section 6103(b) defines the term “return information” as “a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments ... or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary [of the Treasury] with respect to a return or with respect to the determination of the existence, or possible existence, of liability ... for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense[.]” See 26 U.S.C. § 6103(b)(2)(A). Federal courts have construed the term “return information” expansively to include any information gathered by the Internal Revenue Service regarding a taxpayer’s liability under title 26 of the United States Code. See *Mallas v. Kolak*, 721 F. Supp 748, 754 (M.D.N.C. 1989), aff’d in part, 993 F.2d 1111 (4th Cir. 1993). Thus, the submitted W-4 forms are generally confidential under section 552.101 of the Government Code in conjunction with federal law.

Subsections (c) and (e) of section 6103 are exceptions to the confidentiality provisions of section 6103(a) and provide for disclosure of tax information to the taxpayer or the taxpayer’s designee. See 26 U.S.C. § 6103(c), (e)(1)(A)(i) (tax return information may be disclosed to taxpayer), (e)(7) (information may be disclosed to any person authorized by subsection (e) to obtain such information if Secretary of Treasury determines such disclosure would not seriously impair tax administration); see also *Lake v. Rubin*, 162 F.3d 113 (D.C. Cir. 1998) (section 6103 represents exclusive statutory route for taxpayer to gain access to own return information and overrides individual’s right of access under the federal Freedom of Information Act). We note the requestor represents the individual whose W-4 forms are at issue. Therefore, the county must release the submitted W-4 forms to this requestor pursuant to section 6103(e) of title 26 of the United States Code.

Section 552.101 of the Government Code also encompasses the current section 1701.454 of the Occupations Code, which governs the public availability of information submitted to TCOLE under subchapter J of chapter 1701 of the Occupations Code. Section 1701.454 provides as follows:

- (a) All information submitted to the commission 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 commission member or other person may not release information submitted under this subchapter.

Occ. Code. § 1701.454. We note the remaining information contains F-5 forms created after September 1, 2011, that were submitted to TCOLE pursuant to subchapter J of chapter 1701 of the Occupations Code. We note the F-5 forms at issue demonstrate the information relates to an officer who was dishonorably discharged. We are unable to determine whether the officer at issue was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses. Accordingly, we must rule in the

alternative. If the officer at issue was terminated for reasons other than substantiated incidents of excessive force or violations of the law other than traffic offenses, then the county must withhold the submitted F-5 forms under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code. Conversely, if the officer at issue was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses, then the submitted F-5 forms are not confidential under section 1701.454 of the Occupations Code, and the county may not withhold them under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses information protected by federal law, such as section 1324a of title 8 of the United States Code. Section 1324a governs I-9 forms and their related documents. This section provides an I-9 form and “any information contained in or appended to such form, may not be used for purposes other than for enforcement of this chapter” and for enforcement of other federal statutes governing crime and criminal investigations. *See* 8 U.S.C. § 1324a(b)(5); *see also* 8 C.F.R. § 274a.2(b)(4). Upon review, we find you have failed to demonstrate the remaining information contains an I-9 form. Accordingly, the county may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 1324a of title 8 of the United States Code.

Section 552.101 of the Government Code also encompasses the Family and Medical Leave Act (the “FMLA”). *See* 29 U.S.C. § § 2601 *et. seq.* Section 825.500 of chapter V of title 29 of the Code of Federal Regulations identifies the record-keeping requirements for employers that are subject to the FMLA. Subsection (g) of section 825.500 states:

[r]ecords and documents relating to certifications, recertifications or medical histories of employees or employees’ family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files, and if the ADA, as amended, is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements[], except that:

- (1) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations;
- (2) First aid and safety personnel may be informed (when appropriate) if the employee’s physical or medical condition might require emergency treatment; and
- (3) Government officials investigating compliance with FMLA (or other pertinent law) shall be provided relevant information upon request.

29 C.F.R. § 825.500(g). We note a portion of the submitted documents, which we have marked, is confidential under section 825.500 of title 29 of the Code of Federal Regulations. Further, we find none of the release provisions of the FMLA apply to this information. Accordingly, the county must withhold the information we have marked under section 552.101 of the Government Code in conjunction with the FMLA.

Section 552.101 of the Government Code also encompasses the Medical Practice Act (the “MPA”), subtitle B of title 3 of the Occupations Code. *See* Occ. Code §§ 151.001-168.202. Section 159.002 of the MPA provides in relevant part the following:

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

*Id.* § 159.002(a)-(c). Information subject to the MPA includes both medical records and information obtained from those records. *See id.* §§ 159.002, .004. This office has concluded the protection afforded by section 159.002 extends only to records created by either a physician or someone under the supervision of a physician. *See* Open Records Decision Nos. 487 at 3-4 (1988), 370 at 2 (1983), 343 at 1 (1982).

Upon review, we find a portion of the remaining information, which we have marked, constitutes records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that were created or are maintained by a physician and information obtained from a patient’s medical records. Accordingly, the county must withhold the marked information under section 552.101 of the Government Code in conjunction with the MPA. However, we note some of the remaining information contains the results of drug tests. Section 159.001 of the MPA defines “patient” as a person who consults with or is seen by a physician to receive medical care. Occ. Code § 159.001(3). Because the individual at issue in the remaining information did not receive medical care in the administration of the drug test, this individual is not a patient for purposes of section 159.002. Additionally, we find the county has not demonstrated any portion of the remaining information is subject to the MPA, and the county may not withhold the remaining information under section 552.101 on that basis.

Section 552.101 of the Government Code also encompasses information made confidential by chapter 611 of the Health and Safety Code. Section 611.002 pertains to mental health records and provides, in pertinent part,

(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, 611.0041, or 611.0045.

Health & Safety Code § 611.002(a)-(b); *see id.* § 611.001 (defining “patient” and “professional”). Section 611.001 defines a “professional” as (1) a person authorized to practice medicine, (2) a person licensed or certified by the state to diagnose, evaluate or treat mental or emotional conditions or disorders, or (3) a person the patient reasonably believes is authorized, licensed, or certified. *See id.* § 611.001(2). Sections 611.004 and 611.0045 provide for access to mental health records only by certain individuals. *See id.* §§ 611.004, .0045; *see also* Open Records Decision No. 565 (1990). Upon review, we find you have not demonstrated any portion of the remaining information at issue consists of a mental health record for purposes of chapter 611 of the Health and Safety Code. Accordingly, the county may not withhold any portion of the remaining information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses section 411.083 of the Government Code which pertains to criminal history record information (“CHRI”). CHRI generated by the National Crime Information Center (“NCIC”) or by the Texas Crime Information Center is confidential under federal and state law. 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.” Gov’t Code § 411.082(2). Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI obtained from the NCIC network or other states. *See* 28 C.F.R. § 20.21. The federal regulations allow each state to follow its individual law with respect to CHRI it generates. Open Records Decision No. 565 at 7 (1990); *see generally* Gov’t Code ch. 411 subch. F. 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 or subchapter E-1 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). Thus, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. We note section 411.083 does not apply to active warrant information or other information relating to one’s current involvement in 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). Upon review, we find a portion of the remaining information, which we have marked, consists of CHRI that is confidential under

section 411.083. Thus, the county must withhold the marked information under section 552.101 in conjunction with section 411.083 of the Government Code. However, we find you have not demonstrated any portion of the remaining information consists of CHRI for purposes of chapter 411 of the Government Code, and the county may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 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 information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. We note the requestor has a right of access to his client's date of birth pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Additionally, the submitted information reveals the requestor's client may be the spouse of an individual whose privacy interests are at issue. Thus, the requestor may be the authorized representative of that individual, and may have a right of access to information pertaining to his client's spouse that would otherwise be confidential under common-law privacy. *See* Gov't Code § 552.023(a); ORD 481 at 4.

Accordingly, to the extent the requestor is acting as the authorized representative of his client's spouse, the county may not withhold any portion of the remaining information pertaining to that individual from this requestor under section 552.101 on the basis of common-law privacy. To the extent the requestor is not acting as the authorized representative of his client's spouse, the county must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. Additionally, the county must withhold all public citizens' dates of birth not belonging to an individual of whom the requestor is acting as the authorized representative under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated any of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Thus, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.117(a)(1) of the Government Code 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. Gov't Code § 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). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official 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. In this instance, we note section 552.117 protects personal privacy. Therefore, the requestor has a right of access to his client's information under section 552.023 of the Government Code and it may not be withheld from him under section 552.117(a)(1) of the Government Code. *See* Gov't Code § 552.023. Additionally, we find the remaining information does not consist of the home address, telephone number, emergency contact information, social security number, or family member information of a current or former employee of the county, and the county may not withhold any portion of the remaining information under section 552.117(a)(1).

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”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). We note section 552.136 also protects personal privacy. Accordingly, the requestor has a right of access to his client's information under section 552.023 of the Government Code and it may not be withheld from his under section 552.136. *See id.* § 552.023(a); ORD 481 at 4. Accordingly, the county must withhold the submitted bank account and routing numbers under section 552.136 of the Government Code. However, upon review, we find you have failed to demonstrate any of the remaining information at issue consists of access device numbers not belonging to the requestor's client for purposes of section 552.136. Accordingly, the county may not withhold any portion of the remaining information under section 552.136 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to an institutional e-mail address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, an e-mail address of a vendor who seeks to contract with a governmental body, an e-mail address maintained by a governmental entity for one of its officials or employees, or an e-mail address provided to a governmental body on a letterhead. *See id.* § 552.137(c). We further note section 552.137 protects personal privacy and thus, the requestor has a right of access to his client's e-mail address under section

552.137(b). *Id.* § 552.137(b). Upon review, we find the information at issue does not contain any e-mail addresses of members of the public not belonging to the requestor's client. Thus, the county may not withhold any of the information at issue under section 552.137 of the Government Code.

Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. *Id.* § 552.147(a). In this instance, the remaining information includes the requestor's client's and his client's spouse's social security numbers. As noted above, the requestor may be the authorized representative of his client's spouse, and may have a right of access to information pertaining to that individual that would otherwise be confidential. *See generally id.* § 552.023(a). Accordingly, to the extent the requestor is acting as the authorized representative of his client's spouse, then the county may not withhold any portion of the remaining information pertaining to that individual from this requestor under section 552.147. To the extent the requestor is not acting as the authorized representative of his client's spouse, the county may withhold the information we have marked under section 552.147. In either event, the county may withhold the remaining social security numbers within the remaining information under section 552.147 of the Government Code.

In summary, the officer's TCOLE number is not subject to the Act and need not be released to the requestor. If the officer at issue was terminated for reasons other than substantiated incidents of excessive force or violations of the law other than traffic offenses, then the county must withhold the submitted F-5 forms under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code. The county must withhold the information we have marked under section 552.101 of the Government Code in conjunction with the FMLA. The county must withhold the marked information under section 552.101 of the Government Code in conjunction with the MPA. The county must withhold the marked information under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. To the extent the requestor is not acting as the authorized representative of his client's spouse, the county must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The county must withhold all public citizens' dates of birth not belonging to an individual of whom the requestor is acting as the authorized representative under section 552.101 of the Government Code in conjunction with common-law privacy. The county must withhold the submitted bank account and routing numbers under section 552.136 of the Government Code. To the extent the requestor is not acting as the authorized representative of his client's spouse, the county may withhold the information we have marked and the remaining social security numbers under section 552.147 of the Government Code. The remaining information must be released.<sup>3</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.

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<sup>3</sup> We note the requestor has a right of access to some of the information being released. *See id.* § 552.023(a); ORD 481 at 4. Thus, if the county receives another request for the same information from a different requestor, the county must again seek a decision from this office.

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,

Colin Henry  
Attorney  
Open Records Division

CEH/jxd

Ref: ID# 947265

Enc. Submitted documents

c: Requestor  
(w/o enclosures)