



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 30, 2022

Ms. Amy Boyd  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2022-30273

Dear Ms. Boyd:

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# 975556.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information pertaining to specified information requests during a specified time period.<sup>1</sup> You state the sheriff's office is relying on Open Records Letter Nos. 2022-14235 (2022) and 2022-14674 (2022) with respect to some of the requested information. *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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). You state the sheriff's office will withhold certain dates of birth pursuant to the previous determination issued in Open Records Letter No. 2016-21706 (2016).<sup>2</sup> We understand the sheriff's office will redact information pursuant to sections 552.130(c) and 552.147(b) of the Government Code.<sup>3</sup> You

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<sup>1</sup> You state the sheriff's office sought and received clarification three times of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup> Open Records Letter No. 2016-21706 is a previous determination issued to the sheriff's office authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

<sup>3</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance

claim a portion of the submitted information is not subject to the Act pursuant to section 552.002 of the Government Code. You also claim some of the submitted information is excepted from disclosure under sections 552.101, 552.117, 552.1175, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>4</sup>

Initially, we note the submitted information includes officers' Texas Commission on Law Enforcement ("TCOLE") identification numbers. 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;
- (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 an officer's TCOLE identification number is a unique computer-generated number assigned to peace officers for identification in TCOLE's electronic database and may be used as an access device number on the TCOLE website. Thus, we find the officers' TCOLE numbers do not constitute public information under section 552.002 of the Government Code.

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with section 552.130(e). *See id.* § 552.130(d), (e). 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 id.* § 552.147(b).

<sup>4</sup> 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 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.

Therefore, the officers' TCOLE numbers are not subject to the Act and need not be released to the requestor.

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

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You state the information you marked pertains to reports of alleged abuse or neglect. However, we are unable to determine the ages of the victims involved in the information at issue. *See id.* §§ 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code). Accordingly, we must rule conditionally. To the extent the information you marked involves a victim of alleged abuse or neglect who was under eighteen years of age at the time of the incident at issue, then the information is subject to chapter 261 of the Family Code. In that instance, the sheriff's office must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). However, to the extent the information at issue does not involve a victim of alleged abuse or neglect who was a child at the time of the incident at issue, then the information is not subject to chapter 261 of the Family Code, and the sheriff's office may not withhold the information at issue under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses information protected by chapter 411 of the Government Code, which makes confidential criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. *See* Gov't Code § 411.083(a). 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 (1990). The federal regulations allow each state to follow its individual laws with respect to the CHRI it generates. *See id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that DPS may disseminate this

information as provided in chapter 411, subchapter F, 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. We note a Federal Bureau of Investigation ("FBI") number consists of CHRI that is confidential under section 411.083. Thus, the sheriff's office must withhold all FBI numbers in the remaining information under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law.

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 [required public disclosure] 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 state you marked the identifying information of undercover officers and release of this information 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 officers at issue. Accordingly, the sheriff's office must withhold the information you marked under section 552.152 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."<sup>5</sup> *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). Accordingly, the sheriff's office must withhold all current and former employees' dates of birth under section 552.102(a) of the Government Code.<sup>6</sup>

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

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

<sup>6</sup> As our ruling is dispositive, we need not address your arguments against disclosure of this information.

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. This office also 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. 600 (1992) (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), 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). The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *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.). Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Upon review, we conclude the information we marked meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, we note some of the information at issue pertains to an individual whose identity will be de-identified, and whose privacy interests are, thus, protected. Accordingly, the sheriff's office must withhold the information we marked and all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find no portion of the remaining information is highly intimate or embarrassing and of no legitimate public concern, and the sheriff's office may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of common-law privacy.

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 home address, home telephone number, emergency contact information, and social security number of a current or honorably retired peace officer, as well as information that reveals whether the current or honorably retired peace officer has family members, regardless of whether the current or honorably retired peace officer complies with sections 552.024 and 552.1175 of the Government Code. *See* Gov't Code § 552.117(a)(2); *id.* § 552.003(1-b) (defining "honorably retired" for purposes of the Act). We note, for purposes of section 552.117, "family member" means a spouse, minor child, or adult child who resides in the person's home. *See id.* § 552.117(c) (providing that "family member" has meaning assigned by Fin. Code § 31.006(d)). We note section 552.117 also encompasses a personal cellular telephone number, unless the cellular service is paid for by a governmental body. *See* Open

Records Decision No. 506 at 5-6 (1988) (statutory predecessor to section 552.117 not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. In this instance, however, it is unclear whether the individual whose information is at issue is a current or honorably retired peace officer as defined by article 2.12. Accordingly, if the individual at issue is a current or honorably retired peace officer as defined by article 2.12 of the Code of Criminal Procedure, then the sheriff's office must withhold the information you marked under section 552.117(a)(2) of the Government Code; however, the sheriff's office may only withhold the marked cellular telephone number if the cellular telephone service is not paid for by a governmental body.

If the individual at issue is not a current or honorably retired peace officer, then the information at issue may be subject to section 552.117(a)(1) of the Government Code, which excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security number, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024. Gov't Code § 552.117(a)(1). Section 552.117(a)(1) also applies to the personal cellular telephone number of a current or former official or employee of a governmental body, provided the cellular telephone service is not paid by a governmental body. *See* ORD 506 at 5-6. 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 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. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request under section 552.024 the information be kept confidential. Accordingly, to the extent the individual whose information is at issue is not a current or honorably retired peace officer as defined by article 2.12 of the Code of Criminal Procedure but timely requested confidentiality under section 552.024 of the Government Code, the sheriff's office must withhold the information you marked under section 552.117(a)(1) of the Government Code; however, the cellular telephone number at issue may be withheld only if a governmental body does not pay for the cellular telephone service.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to "current or honorably retired peace officers as defined by Article 2.12, Code of Criminal Procedure." *See id.* § 552.1175(a)(1); *see also id.* § 552.003(1-b). Section 552.1175 also applies to "officers and employees of a community supervision and corrections department under Chapter 76 who perform a duty described by Section 76.004(b)[.]" *Id.* § 552.1175(a)(6). Section 552.1175 also encompasses a personal cellular telephone number, unless the cellular telephone service is paid for by a governmental body. *See* ORD

506 at 5-6. Thus, to the extent the information at issue relates to current or honorably retired peace officers or officers and employees of a community supervision and corrections department who elected to restrict access to his information in accordance with section 552.1175(b) of the Government Code, and a governmental body does not pay for the cellular telephone service, the sheriff's office must withhold the information you marked under section 552.1175 of the Government Code; however, the sheriff's office may not withhold the cellular telephone numbers at issue if the cellular telephone service is paid for by a governmental body.

You state you will withhold personal e-mail addresses pursuant to section 552.137 of the Government Code and Open Records Decision No. 684 (2009).<sup>7</sup> 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). We note section 552.137 does not apply to an institutional e-mail address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, an e-mail address of a vendor who seeks to contract with a governmental body, an e-mail address maintained by a governmental entity for one of its officials or employees, or an e-mail address provided to a governmental body on a letterhead. *See id.* § 552.137(c). Upon review, we find the information we have marked for release is specifically excluded by section 552.137(c) of the Government Code. Accordingly, the sheriff's office may not withhold the e-mail addresses we have marked for release under section 552.137 of the Government Code. However, the sheriff's office must withhold the remaining e-mail addresses you marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure.

In summary, the officers' TCOLE numbers are not subject to the Act and need not be released to the requestor. To the extent the information you marked involves a victim of alleged abuse or neglect who was under eighteen years of age at the time of the incident at issue, the sheriff's office must withhold it under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The sheriff's office must withhold all FBI numbers in the remaining information under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law. The sheriff's office must withhold the information you marked under section 552.152 of the Government Code. The sheriff's office must withhold all current and former employees' dates of birth under section 552.102(a) of the Government Code. The sheriff's office must withhold the information we marked and all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. If the individual at issue is a current or honorably retired peace officer as defined by article 2.12 of the Code of Criminal Procedure, then the sheriff's office must withhold the information you marked under section 552.117(a)(2) of the Government Code; however, the sheriff's office may only withhold the marked cellular telephone number if the cellular telephone

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<sup>7</sup> Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision, including an e-mail address of a member of the public under section 552.137 of the Government Code.

service is not paid for by a governmental body. To the extent the individual whose information is at issue is not a current or honorably retired peace officer as defined by article 2.12 of the Code of Criminal Procedure but timely requested confidentiality under section 552.024 of the Government Code, the sheriff's office must withhold the information you marked under section 552.117(a)(1) of the Government Code; however, the cellular telephone number at issue may be withheld only if a governmental body does not pay for the cellular telephone service. To the extent the information at issue relates to current or honorably retired peace officers or officers and employees of a community supervision and corrections department who elected to restrict access to his information in accordance with section 552.1175(b) of the Government Code, and a governmental body does not pay for the cellular telephone service, the sheriff's office must withhold the information you marked under section 552.1175 of the Government Code; however, the sheriff's office may not withhold the cellular telephone numbers at issue if the cellular telephone service is paid for by a governmental body. With the exception of the information we marked for release, the sheriff's office must withhold the remaining e-mail addresses you marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure. The sheriff's office 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,

Chase D. Young  
Assistant Attorney General  
Open Records Division

CDY/eb

Ref: ID# 975556

Enc. Submitted documents

c: Requestor  
(w/o enclosures)