



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 19, 2022

Ms. Bridgette A. Begle
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OR2022-32261

Dear Ms. Begle:

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# 978955 (Reference No. COHM22-048).

The Humble Police Department (the "department"), which you represent, received a request for (1) all e-mails sent or received by the department's Chief of Police during a defined period of time; (2) all e-mails sent or received by The Fraternal Order of Police pertaining to a specified department officer; (3) salaries of two department officers; and (4) records pertaining to an incomplete internal investigation and a specified officer. You state you will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code, social security numbers pursuant to section 552.147(b) of the Government Code, and certain information pursuant to Open Records Decision No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.117 of the Government Code. In addition, you state release of the submitted information may implicate the interests of Axon Enterprise, Inc.; Coban Technologies, Inc.; DataPilot, Inc.; DigitalMarkets, Inc. d/b/a Vista Com ("Vista");

¹ Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 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 redact such information, it must notify the requestor in accordance 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). Open Records Decision No. 684 is a previous determination issued by this office authorizing all governmental bodies to withhold certain categories of information without the necessity of requesting an attorney general decision.

Eventide, Inc.; Stoelting Co.; and the Texas Department of Transportation. Accordingly, you state, and provide documentation showing, you notified these interested parties of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code §§ 552.304, .305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Vista. We have considered the submitted arguments and reviewed the submitted representative sample of information.²

Initially, we note the requestor seeks information created after the date of the request. It is implicit in several provisions of the Act that the Act applies only to information already in existence. *See* Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See* Attorney General Opinion H-90 (1973); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 87 (1975). Consequently, a governmental body is not required to comply with a standing request to supply information prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1978), 465 at 1 (1987). Thus, the only information encompassed by the present request consists of information the department maintained or had a right of access to as of the date it received the request.

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any remaining notified third party explaining why the submitted information should not be released. Therefore, we have no basis to conclude any remaining notified third party has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the department may not withhold the submitted information on the basis of any proprietary interest any remaining notified third party may have in the information.

We note some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part, as follows:

- (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:

² 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 that those records contain substantially different types of information than that submitted to this office.

(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 a completed investigation that is subject to section 552.022(a)(1). The department must release the submitted information pursuant to section 552.022(a)(1) unless it is excepted from disclosure under section 552.108 of the Government Code or is made confidential under the Act or other law. *See id.* The department seeks to withhold the information at issue under sections 552.101, 552.107, and 552.108 of the Government Code. However, section 552.107 of the Government Code is discretionary in nature and does not make information confidential under the Act. *See* Open Records Decision Nos. 676 at 10-11 (2002) (attorney-client privilege under section 552.107(1) may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the department may not withhold the information subject to section 552.022(a)(1), which we marked, under section 552.107 of the Government Code. However, we will consider your argument to withhold this information under section 552.108 of the Government Code. *See* Gov't Code § 552.022(a)(1). In addition, because sections 552.101, 552.117, and 552.1175 of the Government Code can make information confidential for purposes of section 552.022, we will consider the applicability of these exceptions to the information at issue.³ Further, as the Texas Supreme Court has held the Texas Rules of Evidence are “other law” that make information expressly confidential for the purposes of section 552.022, we will consider your assertion of the attorney-client privilege under Texas Rule of Evidence 503 for the information at issue. *See In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001). Finally, we will address your arguments for the information not subject to section 552.022.

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

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

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

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a closed criminal investigation that

³ 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).

concluded in a final result other than conviction or deferred adjudication. *See* Gov't Code §§ 552.108(a)(2), .301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You generally claim sections 552.108(a)(1) and 552.108(a)(2) of the Government Code for the information at issue. However, you did not label or otherwise identify what information you seek to withhold under section 552.108(a)(1) or section 552.108(a)(2). *See id.* § 552.301(e)(2) (governmental body must label copy of information at issue to indicate which exceptions apply to which parts of the information). Therefore, we find you have failed to establish section 552.108(a)(1) or section 552.108(a)(2) is applicable to any of the information at issue and the department may not withhold it on these bases.

Texas Rule of Evidence 503(b)(1) provides the following:

A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to facilitate the rendition of professional legal services to the client:

(A) between the client or the client's representative and the client's lawyer or the lawyer's representative;

(B) between the client's lawyer and the lawyer's representative;

(C) by the client, the client's representative, the client's lawyer, or the lawyer's representative to a lawyer representing another party in a pending action or that lawyer's representative, if the communications concern a matter of common interest in the pending action;

(D) between the client's representatives or between the client and the client's representative; or

(E) among lawyers and their representatives representing the same client.

TEX. R. EVID. 503(b)(1). A communication is "confidential" if not intended to be disclosed to third persons other than those to whom disclosure is made to further the rendition of professional legal services to the client or reasonably necessary to transmit the communication. *Id.* 503(a)(5).

Accordingly, in order to withhold attorney-client privileged information from disclosure under rule 503, a governmental body must 1) show that the document is a communication transmitted between privileged parties or reveals a confidential communication; 2) identify the parties involved in the communication; and 3) show that the communication is confidential by explaining that it was not intended to be disclosed to third persons and that it was made in furtherance of the rendition of professional legal services to the client. *See* ORD 676. Upon a demonstration of all three factors, the entire communication is confidential under rule 503 provided the client has not waived the privilege or the

communication does not fall within the purview of the exceptions to the privilege enumerated in rule 503(d). *Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein); *In re Valero Energy Corp.*, 973 S.W.2d 453, 457 (Tex. App.—Houston [14th Dist.] 1998, orig. proceeding) (privilege attaches to complete communication, including factual information).

You state the information subject to section 552.022 of the Government Code consists of communications between outside counsel for the department and department employees and officials that were made for the purpose of providing legal services to the department. However, we find the information at issue was also shared with individuals you have not demonstrated to be privileged parties. Therefore, you have failed to establish the information at issue constitutes privileged attorney-client communications for the purposes of rule 503. Accordingly, the department may not withhold the information subject to section 552.022(a)(1) of the Government Code under Texas Rule of Evidence 503.

Section 552.110(b) of the Government Code states, “information is [excepted from required disclosure] if it is demonstrated based on specific factual evidence that the information is a trade secret.” Gov’t Code § 552.110(b). Section 552.110(a) defines a trade secret as all forms and types of information if:

- (1) the owner of the trade secret has taken reasonable measures under the circumstances to keep the information secret; and
- (2) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

Id. § 552.110(a). Section 552.110(c) of the Government Code excepts from disclosure “commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” *Id.* § 552.110(c).

Vista argues some of its information at issue consists of trade secrets subject to section 552.110(b) and commercial or financial information subject to section 552.110(c). Upon review, however, we find Vista has failed to provide the specific factual evidence demonstrating any portion of the information at issue is a trade secret or constitutes commercial or financial information, the release of which would result in substantial competitive harm. Accordingly, the department may not withhold any portion of the submitted information under section 552.110 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. Section 552.101 encompasses information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Transp. Code § 550.065(a)(1). Chapter 550 requires the creation of a written report when the accident resulted in injury to

or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. *Id.* §§ 550.061 (operator’s accident report), .062 (officer’s accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use of the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity shall release an accident report in accordance with subsections (c) and (c-1). *Id.* § 550.065(c), (c-1). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c). In this instance, the requestor is not a person listed under section 550.065(c). Thus, the submitted accident reports are confidential under section 550.065(b), and the department must withhold them under section 552.101 of the Government Code.

Section 552.101 of the Government Code also encompasses information that is made confidential by other statutes. The department raises section 552.101 of the Government Code in conjunction with section 418.176 of the Texas Homeland Security Act (the “HSA”), chapter 418 of the Government Code. Sections 418.176 through 418.182 were added to chapter 418 as part of the HSA. These provisions make certain information related to terrorism confidential. Section 418.176 of the HSA provides in relevant part:

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

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

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

Gov’t Code § 418.176(a)(1)-(2). The fact that information may relate to emergency preparedness does not make such information *per se* confidential under the HSA. *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 exception to disclosure, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You assert some of the remaining information reveals tactical plans and staffing requirements of emergency response providers related to a confidential operation. You state the information at issue contains “specific locations and maps that identify possible vulnerabilities related to . . . specific tactical concerns . . . [as well as] staffing levels and locations of law enforcement[.]” Upon review, we find the information at issue relates to the staffing requirements or tactical plan of a law enforcement agency and is maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or

investigating an act of terrorism or related criminal activity. Therefore, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.⁴

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. *Id.* § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706). A governmental body claiming section 552.108(b)(1) must explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706. Section 552.108(b)(1) is intended to protect “information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). This office has concluded section 552.108(b)(1) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section 552.108 of the Government Code is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, ORDs 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

The department states some of the remaining information, if released, would interfere with law enforcement or prosecution of crime. The department further states the information at issue contains shift rosters and work schedules of department officers as well as firearm serial numbers. The department argues the release of information at issue would jeopardize officer safety as the work schedules repeat monthly and firearm serial numbers could be cloned onto illegal firearms used to commit crimes or be falsely included in a missing weapons report. Based upon these representations and our review, we agree the release of the information at issue would interfere with law enforcement. Accordingly, the department may withhold the information we marked under section 552.108(b)(1) of the Government Code.

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. Gov't Code § 552.107(1). The elements of the privilege under section 552.107(1) are the same as those discussed above for rule 503. 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. ORD 676 at 6-7. Section 552.107(1) generally excepts an entire communication that

⁴ As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie*, 922 S.W.2d at 923.

You state the remaining information consists of communications between outside counsel for the department and department employees and officials that were made for the purpose of providing legal services to the department. You state the communications were intended to be confidential and have remained confidential. Based upon your representations and our review, we find the information we marked consists of privileged attorney-client communications. Therefore, the department may withhold the information we marked under section 552.107(1) of the Government Code. However, we find you have failed to establish the remaining information at issue constitutes privileged attorney-client communications for the purposes of section 552.107(1). Accordingly, the department may not withhold the remaining information at issue under section 552.107(1) of the Government Code.

Section 552.101 of the Government 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. 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). This office has held common-law privacy protects the identity of a juvenile offender or a juvenile victim of abuse or neglect. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code §§ 58.008(b), 261.201. The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *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.).

Upon review, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, we note some of the dates of birth pertain to individuals who will be de-identified and whose privacy interests are, thus, protected. Accordingly, the department must withhold all identifiable public citizens' dates of birth and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate any of the remaining information is highly intimate or embarrassing and not

of legitimate public interest. Thus, the department may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

Section 552.117(a)(2) of the Government Code 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), .003(1-b)* (defining "honorably retired" for purposes of the Act). We note section 552.117 also encompasses a personal cellular telephone number, provided the cellular telephone service is not paid for by a governmental body. *See Open Records Decision No. 506 at 5-6 (1988)* (section 552.117 not applicable to cellular telephone numbers paid for by a governmental body and intended for official use). In this instance, we are unable to determine whether the individual whose information is at issue is a currently licensed or honorably retired peace officer. Therefore, we must rule conditionally. If the individual at issue is a currently licensed or honorably retired peace officer, then the department must withhold the marked cellular telephone number under section 552.117(a)(2) of the Government Code; however, the marked cellular telephone number may only be withheld if the cellular telephone service is not paid for by a governmental body. Conversely, if the individual at issue is not a currently licensed or honorably retired peace officer, then the department may not withhold the information at issue under 552.117(a)(2). In either instance, we find you have failed to demonstrate the applicability of section 552.117(a)(2) to the remaining information, and thus, no portion of the remaining information may be withheld under section 552.117(a)(2).

If the individual at issue is not a current licensed or honorably retired peace officer, then the information at issue may be subject to section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See Gov't Code § 552.117(a)(1)*. As noted above, section 552.117 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 for by a governmental body. *See ORD 506 at 5-6*. 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(a)(1) on behalf of a current or former employee or official 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 timely requested confidentiality under section 552.024 of the Government Code, the department must withhold the marked cellular telephone number under section 552.117(a)(1) of the Government Code; however, the marked cellular telephone number may only be withheld if the cellular telephone service is not paid for by a governmental body. Additionally, we find you have failed to demonstrate the applicability of 552.117(a)(2) to the remaining info, and thus, no portion of the remaining info may be withheld under 552.117(a)(2).

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), .003(1-b) (defining “honorably retired” for purposes of the Act). Thus, to the extent the information we marked pertains to a current or honorably retired peace officer who elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code, the department must withhold the information we marked under section 552.1175 of the Government Code; however, the marked cellular telephone number may only be withheld under section 552.1175 if a governmental body does not pay for the cellular telephone service. If the individual whose information is at issue is not a current or honorably retired peace officer or does not elect to restrict access to his information in accordance with section 552.1175(b), then the information at issue may not be withheld under section 552.1175 of the Government Code.

We note some of the remaining information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with copyright law and the risk of a copyright infringement suit.

In summary, the department must withhold the submitted CR-3 accident reports under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The department must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code. The department may withhold the information we marked under section 552.108(b)(1) of the Government Code. The department may withhold the information we marked under section 552.107(1) of the Government Code. The department must withhold all identifiable public citizens' dates of birth and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. If the individual at issue is a currently licensed or honorably retired peace officer, then the department must withhold the marked cellular telephone under section 552.117(a)(2) of the Government Code; however, the marked cellular telephone number may only be withheld if the cellular telephone service is not paid for by a governmental body. If the individual whose information is at issue (1) is not a currently licensed or honorably retired peace officer and (2) timely requested confidentiality under section 552.024 of the Government Code, the department must withhold the marked cellular telephone number under section 552.117(a)(1) of the Government Code; however, the marked cellular telephone number may only be withheld if the cellular telephone service is not paid for by a governmental body. To the extent the information we marked pertains to a current or honorably retired

peace officer who elects to restrict access to his information in accordance with section 552.1175(b) of the Government Code, the department must withhold the information we marked under section 552.1175 of the Government Code; however, the marked cellular telephone number may only be withheld under section 552.1175 if a governmental body does not pay for the cellular telephone service. The department must release the remaining information; however, any information subject to copyright may be released only in accordance with copyright law.

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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/pt

Ref: ID# 978955

Enc. Submitted documents

c: Requestor
(w/o enclosures)

6 Third Parties
(w/o enclosures)

Interested Party
(w/o enclosures)