

TEXAS PUBLIC INFORMATION ACT EXCEPTIONS TO DISCLOSURE

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TEXAS PUBLIC INFORMATION ACT:

Exceptions to Disclosure

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I. Privacy and personnel records

- A. The vast majority of information that a governmental body possesses about a public employee or official is considered an open record and accessible to the public. The name, position, salary, age, education, experience, licenses, certificates, employee evaluations, professional awards and recognition, and job related exam scores are generally considered public information.
- B. However, certain information that a governmental body possesses about a public employee or official is considered confidential.
 - 1. Sections 552.024 and 552.117 except from disclosure the home address and home telephone number, the social security number, and information identifying the family members of governmental officials and employees, if the government official or employee has indicated such desire to the main personnel officer of the governmental unit. If the official or employee fails to make such election, the information is public information. However, the home address and home telephone number, the social security number, and information identifying the family members of peace officers and prosecutors (including municipal attorneys whose jurisdiction include any criminal law or child protective services matters) is always excepted from disclosure. A governmental body may redact this information without seeking an Attorney General opinion if it provides the requestor with certain information on the form prescribed by the Attorney General. The form for notifying the requestor is available on the Attorney General's website.
 - 2. Section 552.130 excepts from disclosure information related to a driver's license or permit, motor vehicle title or registration, and personal identification document (controlled by chapter 730, Texas Transportation Code). Attorney General Open Records Decision No. 684 (2009) is a previous determination that authorizes a governmental body to withhold this information without seeking an Attorney General opinion.
 - 3. Section 552.136 excepts from disclosure credit card, debit card, charge card, and access device numbers. Attorney General Open Records Decision No. 684 (2009) is a previous determination that authorizes a governmental body to withhold this information without seeking an Attorney General opinion.

4. Section 552.147 excepts from disclosure the social security number of a living person. A governmental body may redact the social security number of a living person from any information that the governmental body discloses without seeking an Attorney General opinion.
5. Section 552.140 excepts from disclosure a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003. Attorney General Open Records Decision No. 684 (2009) is a previous determination that authorizes a governmental body to withhold this information without seeking an Attorney General opinion.
6. Section 552.101 in conjunction with Section 6103(a) of Title 26 of the United States Code excepts from disclosure W-2 and W-4 forms. Attorney General Open Records Decision No. 684 (2009) is a previous determination that authorizes a governmental body to withhold this information without seeking an Attorney General opinion.
7. Section 552.101 in conjunction with 1324a of Title 8 of the United States Code excepts from disclosure Employment Eligibility Form I-9 and attachments. Attorney General Open Records Decision No. 684 (2009) is a previous determination that authorizes a governmental body to withhold this information without seeking an Attorney General opinion.

C. Common-law privacy

1. Protects from disclosure information that contains highly intimate or embarrassing facts about someone's private matters such that its release would be highly objectionable to a reasonable person and the information is of no legitimate concern to the public. Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668 (Tex. 1976) cert denied, 430 U.S. 931.
2. Protects from disclosure the statements and names of witnesses to and victims of sexual harassment.
3. Protects from disclosure certain financial information pertaining to an individual. "Background" financial information of an individual is generally protected from disclosure.
4. Protects from disclosure a direct deposit authorization form. Attorney General Open Records Decision No. 684 (2009) is a previous determination that authorizes a governmental body to withhold this information without seeking an Attorney General opinion.
5. Common-law privacy rights lapse upon the death of the subject.

- D. Information that is considered confidential by law (not an exhaustive list)
1. Medical records that a physician creates or maintains regarding the identity, diagnosis, evaluation, or treatment of a patient (Section 159.002 Occupations Code)
 2. Polygraph questions, answers, graphs and examiner's opinions (Section 1703.306 Occupations Code)
 3. Family and Medical Leave Act Records (29 U.S.C. Section 2564)
 4. Communications between a patient and a mental health professional and records of the identity, diagnosis, or treatment of a mental health patient created or maintained by a mental health professional (Section 611.002 Health and Safety Code)
 5. Fingerprints (Section 560.003 of the Government Code). Attorney General Open Records Decision No. 684 (2009) is a previous determination that authorizes a governmental body to withhold this information without seeking an Attorney General opinion.
 6. Certain information relating to the provision of emergency medical services (Section 773.091 Health and Safety Code)
 7. Certain personal information in a government-operated utility customer's account records if the customer has requested that the utility keep the information confidential (Section 182.052 Utilities Code)

II. Litigation and other legal information

- A. Section 552.107(1) excepts from disclosure information revealing client confidences or containing legal advice or opinion ("privileged information"); does not protect basic factual communications from the attorney to the client or among attorneys for the same client when those factual communications do not reveal client confidences ("unprivileged information"). ORD 574 (1990), ORD 462 (1987), Texas Disciplinary Rules of Professional Conduct Rule 1.05, and Texas Rules of Evidence Rule 503(b). This exception is discretionary.
- B. Section 552.103 excepts from disclosure information relating to civil or criminal litigation, to which the governmental entity or its officers or employees, as a consequence of their office or employment is or may be a party.
1. The litigation must be pending or "reasonably anticipated" as of the date the open records request is received by the governmental body. Heard v. Houston Post Co., 684 S.W.2d 210 (Tex. App.-Houston [1st Dist.] 1984, writ ref'd n.r.e.).

2. The governmental body, its officials, or its staff must be a party to such litigation.
 3. To invoke the exception, the entity must show litigation is pending by submitting a copy of the pleadings or petition, or "reasonably anticipated" by providing concrete evidence that litigation on a specific matter is anticipated, not just verbal threats.
 4. When a governmental body requests an open records ruling to withhold information under the litigation exception, the governmental body must identify the issues that are involved in the litigation and explain how the information to be withheld relates to those issues.
 5. If the parties to the litigation have inspected the records through discovery or through other means, the litigation exception would no longer apply.
 6. Information that falls under the litigation exception generally can be withheld until the litigation has concluded or is no longer anticipated. Criminal litigation is considered concluded once the statute of limitations has expired or when the defendant has exhausted all appellate and post-conviction remedies in state and federal court. State law does not specifically define when civil litigation is considered to be concluded. Generally, civil litigation is considered to be concluded when all rights of appeal has been exhausted and/or final judgment has been entered.
 7. This exception is discretionary.
- C. The Attorney General has concluded that Section 552.111 incorporates the privilege for work product found in Texas Rules of Civil Procedure 192.5.
1. Rule 192.5 defines work product as:
 - (a) material prepared or mental impressions developed in anticipation of litigation or for trial by or for a party or a party's representatives, including the party's attorneys, consultants, sureties, indemnitors, insurers, employees, or agents; or
 - (b) a communication made in anticipation of litigation or for trial between a party and the party's representatives or among a party's representatives, including the party's attorneys, consultants, sureties, indemnitors, insurers, employees, or agents.
 2. A governmental body raising the work product privilege under Section 552.111 bears the burden of providing the relevant facts in each case to demonstrate the elements of the privilege. One element of the work product test is that the information must have been made or developed for trial or in anticipation of litigation.

3. In order for the Attorney General to conclude that information was created for trial or in anticipation of litigation, the governmental body must demonstrate that at the time the information was created or acquired: (a) a reasonable person would have concluded from the totality of the circumstances . . . that there was a substantial chance that litigation would ensue; and (b) the party resisting discovery believed in good faith that there was a substantial chance that litigation would ensue and [created or obtained the information] for the purpose of preparing for such litigation. Nat'l Tank Co. v. Brotherton, 851 S.W.2d 193.
 4. A "substantial chance" of litigation does not mean a statistical probability, but rather "that litigation is more than merely an abstract possibility or unwarranted fear." Nat'l Tank Co., 851 S.W.2d at 204; ORD No. 677 (2002).
 5. Also, as part of the work product test, material or a mental impression must have been prepared or developed by or for a party or a party's representatives. Similarly, in the case of a communication, the communication must have been made between a party and a party's representatives. Thus, a governmental body claiming the work product privilege must identify the parties or potential parties to the litigation, the person or entity that prepared the information, and any individual with whom the information was shared.
 6. This exception is discretionary.
- D. Information excepted from disclosure under the litigation exception may also be subject to the work product privilege. However, the standard for proving that the litigation exception applies is wholly distinct from the standard for proving that the work product privilege applies.
1. Under Section 552.103, the governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation.
 2. Under the work product privilege, the governmental body must demonstrate that the requested information was created for trial or in anticipation of civil litigation by or for a party or a party's representatives.

III. Law enforcement information

- A. Section 552.108 excepts from disclosure records of law enforcement agencies and prosecutors that deal with the detection investigation and prosecution of crime and internal records and notations of law enforcement agencies and prosecutors maintained for internal use in matters relating to law enforcement and prosecution.

1. This exception does not except from disclosure basic information about an arrested person or basic information within a criminal citation or police offense report.
 2. This exception may apply to departments other than the police department if those departments are, by law, charged with the detection, investigation, or prosecution of crime. For example, the Attorney General has determined that the arson investigation unit of a fire department may cite the law enforcement exception to protect some of its records.
 3. This exception is discretionary.
- B. Section 552.101 incorporates the "informer's privilege", which is the government's privilege to withhold the identity of persons who furnish information of violations of the law to officers enforcing the law.
1. The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement.
 2. The privilege applies only to illegal acts reported to law enforcement authorities or administrative officials charged with enforcing the law. The informer's privilege does not protect information about lawful conduct. The privilege protects not only the informer's identity, but also any portion of the informer's statement that might tend to reveal the informer's identity.
 3. Since the privilege exists to protect the governmental body's interest, the privilege may be waived by the governmental body.
 4. This exception is discretionary.
- C. Section 552.127 excepts from disclosure information related to participants in a neighborhood crime watch organization.
- D. Juvenile law enforcement records are confidential. (Section 58.007 Family Code)
- E. Section 552.101 excepts from disclosure an individual's criminal history information that has been compiled or summarized by a governmental body.
- F. Criminal history information obtained from the federal National Crime Information Center (NCIC) or the Texas Crime Information Center is confidential. (Chapter 411, subchapter F of the Government Code)

IV. Agency memoranda

- A. Section 552.111 excepts from disclosure inter- or intra-agency memorandums or letters which would not be available to a party in litigation with the entity.

1. The purpose of the exception is to protect advice and opinion on policy matters and encourage frank and open discussions. Austin v. City of San Antonio, 630 S.W.2d 391, 394 (Tex.Ct.App.-San Antonio 1982, writ ref'd n.r.e.).
2. Applies only to internal staff communications consisting of advice, recommendations, or opinions reflecting the policymaking processes of the governmental body at issue. This exception does not protect information relating solely to internal administration, such as the evaluation of personnel job performance. ORD 615 (1993).
3. This exception does not include purely factual information that is severable from the opinion portions of the information. ORD 615 (1993). However, where facts and observations are inextricably intertwined with opinion, advice and recommendation, the entire document is excepted from disclosure. ORD-213 (1978); ORD-295; ORD-298 (1981).
4. This exception does not protect routine memoranda or letters on administrative and personnel matters, unless those matters involve policy issues of a broad scope. For example, the evaluation of an individual employee would probably not be protected from disclosure under this exception. However, a university report addressing systematic discrimination against minorities has been found to be protected by this exception. ORD-615 (1993).
5. Information created by outside consultants acting on the governmental body's behalf may in certain cases be covered by this exception.
6. This exception is discretionary.

V. Bidding, contracts, and proprietary information

- A. Section 552.104 excepts from disclosure information that is submitted for competitive bids if its disclosure would give advantage to a competitor or bidder.
 1. This exception does not apply if there is only one entity that is bidding on the project. This exception does not apply to bid information after the bidding is completed and the contract has been awarded.
 2. It is possible that certain information not protected under the bidding exception may still be withheld if it is protected under Section 552.110 or is confidential under other statutory or common law provisions.
 3. This exception can only be used by governmental bodies, not third parties. (see also Sections 552.110 and 552.305)
 4. This exception is discretionary.

- B. Section 552.105 excepts from disclosure the location of real or personal property for a public purpose prior to public announcement of the project or appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.
 - 1. This exception protects a governmental body's planning and negotiating position with respect to particular real or personal property transactions, and its protection is therefore limited in duration. The protection of this section expires upon the governmental body's acquisition of the property in question.
 - 2. This section also has equal application to information pertaining to a lease of real or personal property.
 - 3. This exception is discretionary.
- C. Section 552.110 provides that certain information within bids and other documents may be protected as: (1) trade secrets or (2) 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.
 - 1. Information submitted to a governmental body is not automatically protected from disclosure just because the company submitting that information claims that the information is a trade secret or is "proprietary."
 - 2. The Act requires a governmental body to make a good faith attempt to notify in writing a person whose proprietary information may be subject to this section within ten business days after receiving the request for the information. A notified person bears the burden of establishing the applicability of this section. (see also Sections 552.104 and 552.305)
- D. Section 552.128 excepts from disclosure information submitted by a potential vendor or contractor in connection with an application for certification as a historically underutilized or disadvantaged business.
- E. Section 552.131 excepts from disclosure certain information related to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body.
 - 1. This exception applies to the same two kinds of information excepted from disclosure under Section 552.110: (1) trade secrets and (2) 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. However, unlike Section 552.110, this section only applies to information

that relates to economic development negotiations between a governmental body and a business prospect.

2. This section also excepts from disclosure any information relating to a financial or other incentive offered to a business prospect if the incentive directly or indirectly results in the expenditure of public funds or in a reduction of funds received by a governmental body. After the governmental body reaches an agreement with the business prospect, information about a financial or other incentive offered the business prospect is no longer excepted from disclosure.
3. When a governmental body believes that requested information of a third party may be excepted under this exception, the governmental body must notify the third party.

VI. Other exceptions

- A. Section 552.116 excepts from disclosure audit working papers of a municipal auditor if the audit was authorized or required by a Texas or United States statute or the charter or an ordinance of a municipality. "Audit working paper" is defined as including all information prepared or maintained in conducting an audit or preparing an audit report including intra-agency or interagency communications and drafts of audit reports. To the extent that information in an audit working paper is also maintained in another record, such other record is not excepted from disclosure, although such other record may be withheld from public disclosure under another exception. This exception is discretionary.
- B. Section 552.122 excepts from disclosure test items. "Test item" is defined as "any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." ORD No. 626 (1994). This is determined on a case by case basis by the Attorney General. This exception is discretionary.
- C. Section 552.124 excepts from disclosure a record of a library or library system that identifies or serves to identify a person who requested, obtained, or used a library material or service is generally excepted from disclosure. It excepts from disclosure any information that specifically identifies library patrons. It does not except from disclosure information identifying library employees or other persons not requesting, obtaining, or using a library material or service.
- D. Section 552.130 excepts from disclosure information related to a driver's license or permit, motor vehicle title or registration, and personal identification document (controlled by chapter 730, Texas Transportation Code). Examples of information excepted from disclosure under this section include: (1) the license number, class, restrictions, and expiration date of a driver's license issued by an agency of the State of Texas, and (2) a vehicle identification number and license plate number relating to a title or registration issued by an agency of the State of Texas. Information relating to a license, title, or registration issued by a state other than Texas is not excepted from disclosure under this section. Attorney General Open

Records Decision No. 684 (2009) is a previous determination that authorizes a governmental body to withhold this information without seeking an Attorney General opinion.

- E. Section 552.137 provides that an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body unless that member of the public affirmatively consents to its release. However, an e-mail address of a vendor, contractor, or anyone wanting to do business with a governmental body is public information. Attorney General Open Records Decision No. 684 (2009) is a previous determination that authorizes a governmental body to withhold this information without seeking an Attorney General opinion.
- F. Section 552.139 excepts from disclosure information that relates to computer network security or to the design, operation, or defense of a computer network.

The Texas Public Information Act at a Glance

Under the Texas Public Information Act (the Act), the general rule is that any member of the public has a right to access any information that is collected, assembled, or maintained by or for a city. The Act applies to all city records, regardless of format. Public information includes information that is maintained on paper, tape, microfilm, video, and electronic data held in a computer memory, as well as any other medium.

The Act requires cities to display a sign that informs citizens of their rights. The format of the sign is prescribed by statute and is available on the attorney general's Web site at www.oag.state.tx.us.

The Act only applies to information already in existence. Thus, city officials are not required to conduct research or answer questions. Members of the public may request copies of information or inspect information at city hall, and information should be available at a minimum during normal business hours.

Some cities may choose to respond to oral requests. However, only a written request triggers the Act's requirements. A request is not required to be in any specific format or on a city-provided form, but it must be in writing. Cities should require that all requests be in writing and include the requestor's name, address, phone and fax number, e-mail address, and a detailed description of the information being sought. A city official should never inquire why a person is requesting information, but if a request for information is unclear, a city official may ask for clarification. All requests should be treated the same, without regard to who the requestor is or what information is being sought.

Information must be released "promptly," which is defined in the Act as being "as soon as possible under the circumstances, that is, within a reasonable time, without delay." Thus, a city should release clearly public information as quickly as possible. If a requestor asks for a large volume of information, a city may certify to the requestor in writing a reasonable date by which it will provide the information.

Certain specifically-listed information is made "automatically" public under the Act. For example, a completed report, audit, evaluation, or investigation made of, for, or by a governmental body must always be released, and the Act lists several other types of information that generally have to be released.

While certain information has to be disclosed, there are literally hundreds of exceptions (both permissive and mandatory) that may allow a city to withhold certain types of information. The exceptions range from information regarding ongoing law enforcement investigations to certain medical information. If a city official believes that requested information is confidential by law or may be withheld pursuant to an exception, the city has ten business days to seek an attorney general opinion to allow it to withhold the information, and an additional five business days to submit samples of the information with arguments as to why the information may be withheld. The only way that a city can withhold information under the Act is if the attorney general rules that it may do so, and missing the ten-day deadline may waive the city's right to withhold. Thus, it is essential that each city develop procedures for receiving and processing requests for information.

A city may charge fees for providing public information. In many cases, the fees can include the reasonable costs of copies, labor, and overhead. For detailed information on fees and charges under the Act, please visit the attorney general's Web site.

Violations of the Act may invoke criminal prosecution. For example, refusing to provide public information, releasing confidential information, or destroying government information may lead to fines of up to \$4,000 and up to six months in jail. A city official may also be ordered to release public information by a civil court.

This handout is oversimplified for brevity and should never be substituted for the advice of legal counsel. Please contact your city attorney or the Texas Municipal League Legal Services Department at 512-231-7400 or legal@tml.org with questions regarding the application of the Act. For the detailed Public Information Act Handbook, please visit the Texas attorney general's Web site at www.oag.state.tx.us or call 877-OPEN TEX.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 14, 2009

Open Records Decision No. 684

Re: previous determination decision for all governmental bodies with regard to various exceptions to disclosure in the Public Information Act and other statutes (ORQ-69)

Section 552.011 of the Government Code states "[t]he attorney general shall maintain uniformity in the application, operation, and interpretation" of the Public Information Act (the "PIA"), chapter 552 of the Government Code. TEX. GOV'T CODE ANN. § 552.011 (Vernon 2004). Pursuant to this legislative mandate, section 552.011 grants the attorney general the authority to "prepare, distribute, and publish any materials, including detailed and comprehensive written decisions and opinions, that relate to or are based on" the PIA. *Id.* Under that authority, we issue this decision. It constitutes a previous determination allowing all governmental bodies to withhold, without the necessity of first requesting an attorney general decision, specific categories of information under various exceptions to disclosure in the PIA and other statutes. *See id.* § 552.301(a) (Vernon Supp. 2009) (concerning request for attorney general decision). The PIA requires governmental bodies to promptly release public information requested under the PIA within a reasonable time, without delay. *Id.* § 552.221(a); Tex. Att'y Gen. ORD-664 (2001). This decision is intended to encourage the prompt release of requested public information and increase the efficiency of the PIA review process by clearly identifying certain types of information that governmental bodies may withhold without the delay of requesting an attorney general decision.

I. Background

A governmental body that wishes to withhold requested public information from a requestor based on an exception to disclosure must, in general, first seek a decision from this office before it may lawfully do so under the PIA. TEX. GOV'T CODE ANN. § 552.301(a) (Vernon Supp. 2009) ("A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the

exceptions . . . must ask for a decision from the attorney general . . . if there has not been a previous determination about whether the information falls within one of the exceptions.”); *see Lubbock v. Cornyn*, 993 S.W.2d 461, 465 (Tex. App.—Austin 1999, no. pet.) (“To afford every agency the discretion to determine when the disclosure of otherwise public records would comport with that agency’s interpretation of legislative intent would defeat the fundamental purpose of the Public Information Act.”); *see also* TEX. GOV’T CODE ANN. § 552.006 (Vernon 2004) (PIA “does not authorize the withholding of public information . . . , except as expressly provided by this chapter.”). However, when this office has issued a previous determination decision that requested information is not subject to required public disclosure, a governmental body may withhold the information without first seeking an attorney general decision and still be in compliance with the PIA. TEX. GOV’T CODE ANN. § 552.301(a) (Vernon Supp. 2009); *Rainbow Group Ltd. v. Tex. Employment Comm’n*, 897 S.W. 2d 946, 950 (Tex. App.—Austin 1995, writ denied); Tex. Att’y Gen. ORD-673 (2001) at 1. A previous determination can increase government efficiency and save taxpayer funds by encouraging governmental bodies to quickly release clearly public information to requestors while saving the time and expense involved in seeking a decision on specific, clearly delineated categories of information the Legislature has deemed confidential.

This office has identified two kinds of previous determination decisions, or rulings, we may issue. Tex. Att’y Gen. ORD-673 (2001); *see Houston Chronicle Publ’g Co. v. Mattox*, 767 S.W.2d 695, 698 (Tex. 1989) (acknowledging attorney general’s authority to decide what constitutes a previous determination). The first kind pertains to specific information requested from a governmental body after this office has already issued a ruling that decides the question of the public availability of the precise information at issue.¹ Tex. Att’y Gen. ORD-673 (2001) at 6-7. The second kind requires all of the following criteria be met: (1) the requested information at issue falls within a specific, clearly delineated category of information about which this office has previously rendered a decision; (2) the previous decision is applicable to the particular governmental body or type of governmental body from which the information is requested; (3) the previous decision concludes the specific, clearly delineated category of information is excepted from disclosure under the PIA; (4) the elements of law, fact, and circumstances are met to support the previous decision’s conclusion that the requested records or information at issue is excepted from required disclosure; and (5) the previous decision explicitly provides the governmental body or bodies to which the decision applies may withhold the information without the necessity of again

¹The first type of previous determination requires all of the following criteria be met: (1) the records or information at issue are precisely the same records or information previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; (2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; (3) the attorney general’s prior ruling concluded the precise records or information are or are not excepted from disclosure under the PIA; and (4) the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. Tex. Att’y Gen. ORD-673 (2001) at 6-7.

seeking a decision from this office. *Id.* at 7-8. A previous determination of the second type can apply to all governmental bodies if the decision so provides. *Id.* at 7 n.7. This decision is a previous determination of the second type and applies to all governmental bodies that seek to withhold certain requested information based on the exceptions we address in this decision. A governmental body that relies on this or any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.

II. Information Subject to This Previous Determination

A. Direct Deposit Authorization Form

Section 552.101 of the Government Code states "[i]nformation is excepted from [required public disclosure] if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision." TEX. GOV'T CODE ANN. § 552.101 (Vernon 2004). This exception encompasses judicial decisions recognizing the common-law right to privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 682-83 (Tex. 1976). The Texas Supreme Court has held information is protected from disclosure under section 552.101 and the common-law right to privacy if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Id.* at 685. Both parts of the test must be met for information to be considered confidential based on the common-law right to privacy. *Id.*

Financial information relating to an individual ordinarily satisfies the first requirement of the test for common-law privacy. Tex. Att'y Gen. ORD-600 (1992) at 9; Tex. Att'y Gen. ORD-373 (1983) at 3. A legitimate public interest in financial information exists when the information concerns the essential facts about a financial transaction between an individual and a governmental body. Tex. Att'y Gen. ORD-545 (1990) at 4; *see* Tex. Att'y Gen. ORD-600 (1992) at 9 (finding employee participation in group insurance program funded in part by state involves transaction with state and thus information concerning that participation is not private). But, the public does not have a legitimate interest in information about an individual's personal financial decisions that do not involve a transaction with a governmental body. *See* Tex. Att'y Gen. ORD-600 (1992) at 10-11 (employee choice of health insurance carrier, employee choice of optional insurance coverages, and employee decision to allocate compensation to TexFlex benefits are private financial decisions; information reflecting such decisions is private); Tex. Att'y Gen. ORD-545 (1990) (information related to employee participation in deferred compensation plan represents an individual investment decision the public ordinarily does not have a legitimate interest in knowing).

This office has determined a public employee's decision as to the direct deposit of his or her compensation is a personal financial decision, and the public does not have a

legitimate interest in information about that decision. Tex. Att'y Gen. ORD-600 (1992) at 11-12. Thus, a direct deposit authorization form completed by a public employee is the employee's private information and is excepted from required public disclosure under section 552.101 in its entirety. *Id.* We have attached to this decision an example of a direct deposit authorization form. See Appendix A. We find that any similar direct deposit form, when completed by an employee, implicates the employee's common-law right to privacy and thus is excepted from disclosure in its entirety under section 552.101.

B. Employment Eligibility Verification Form I-9

Section 552.101 also excepts from required public disclosure information considered confidential by statute. TEX. GOV'T CODE ANN. § 552.101 (Vernon 2004). Section 1324a of title 8 of the United States Code governs the disclosure of Employment Eligibility Verification Form I-9. Section 1324a provides the Form I-9 "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.² 8 U.S.C.A. § 1324a(b)(5) (West 2005); see 8 C.F.R. § 274a.2(b)(4) (2009). Release of this form and any attachments under the PIA would be "for purposes other than for enforcement" of the referenced federal statutes. Accordingly, a Form I-9 and any attachments to it are confidential under section 552.101 in conjunction with section 1324a and may only be released in compliance with the federal laws and regulations governing the employment verification system. 8 U.S.C.A. § 1324a(b)(5) (West 2005); TEX. GOV'T CODE ANN. § 552.101 (Vernon 2004). We have attached to this decision an example of the Employment Eligibility Verification Form I-9. See Appendix B.

C. W-2 and W-4 Forms

Section 6103(a) of title 26 of the United States Code provides that tax return information is confidential. See 26 U.S.C.A. § 6103(a) (West Supp. 2009) ("Returns and return information shall be confidential, . . . except as authorized by this title . . ."); *Huckaby v. United States*, 794 F.2d 1041, 1046 (5th Cir. 1986) (Section 6103(a) "forbids the disclosure of return information."). Section 6103 specifies numerous disclosures permitted under that statute. 26 U.S.C.A. § 6103(c)-(o) (West Supp. 2009). "Return information" is defined to include:

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, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by,

²The referenced chapter in section 1324a(b)(5) is chapter 12 of title 8 of the United States Code, "Immigration and Nationality." 8 U.S.C.A. §§ 1101-1537 (West 2005 & Supp. 2009).

prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense[.]

Id. § 6103(b)(2)(A). The term, "return information," has been interpreted broadly by federal courts to include any information gathered by the Internal Revenue Service ("IRS") regarding a taxpayer's liability under title 26 of the United States Code. *Mallas v. Kolak*, 721 F. Supp. 748, 754 (M.D.N.C. 1989), *vacated in part on other grounds sub nom. Mallas v. United States*, 499 F.2d 1111 (4th Cir. 1993); *Johnson v. Sawyer*, 640 F. Supp. 1126, 1131 (S.D. Tex. 1986); *Dowd v. Calabrese*, 101 F.R.D. 427, 438 (D.D.C. 1984). The information in a W-2 form and a W-4 form is data collected by the IRS regarding a taxpayer's liability and therefore is within the broad prohibition of section 6103 of the Internal Revenue Code. *See Morley v. C. I. A.*, 453 F. Supp. 2d 137, 150-51 (D.D.C. 2006) (holding W-4 form is "precisely the type of information prohibited from disclosure by 26 U.S.C. § 6103(a)"), *rev'd on other grounds*, 508 F.3d 1108 (D.C. Cir. 2007); *Thompson Publ'g Group, Inc. v. Health Care Fin. Admin.*, 1994 WL 116141 (D.D.C. 1994) (holding section 6103(a) covers information from W-3 and W-2 forms used to create lists of employees who have received certain Medicare secondary payer mailings). Thus, in the absence of information establishing the applicability of an exception to the confidentiality found in section 6103, W-2 and W-4 forms are confidential in their entirety and excepted from disclosure under section 552.101. Tex. Att'y Gen. ORD-600 (1990) at 8-9. We overrule Open Records Decision No. 226 (1979) to the extent it is inconsistent with this conclusion. *See Tex. Att'y Gen. ORD-226* (1979) (requiring release of name, address and social security number in W-2 form while protecting under section 6103(a) the amount of federal income tax withheld, FICA tax withheld and total FICA wages in W-2 form). We have attached to this decision examples of the W-2 and W-4 forms. *See Appendix C.*

D. Certified Agendas and Tapes of Closed Meetings

We next consider a provision in the Open Meetings Act (the "OMA"), chapter 551 of the Government Code. TEX. GOV'T CODE ANN. §§ 551.001-.146 (Vernon 2004 & Vernon Supp. 2009). Section 551.104(c) of the Government Code provides: "The certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under [s]ubsection (b)(3)." *Id.* § 551.104(c). Subsection (b)(3) authorizes a district court in litigation involving an alleged violation of the OMA to order a governmental body to make available to the public a certified agenda or tape. *See id.* § 551.104 (b)(3). Thus, certified agendas and tapes of closed meetings are confidential under section 551.104 unless a court rules otherwise in an action filed under the OMA. *Id.*; *Finlan v. City of Dallas*, 888 F. Supp. 779, 783-84 (N.D. Tex. 1995). Consequently, such information cannot be released to a member of the public in response to a public information request. Tex. Att'y Gen. ORD-495 (1988) at 3. *But see E.E.O.C. v. City of Orange, Tex.*, 905 F. Supp. 381, 382-83 (E.D. Tex. 1995) (as section 551.104 is preempted to extent it thwarts EEOC's efforts to

investigate employment discrimination charge, city must produce requested tapes of city council executive meetings); Tex. Att'y Gen. Op. No. JC-0120 (1990) at 1 (governmental body may allow member of governmental body who did not attend closed meeting to review tape recording of meeting). A certified agenda and tape of a closed meeting are therefore excepted from required public disclosure under section 552.101 in conjunction with section 551.104. Tex. Att'y Gen. ORD-495 (1988) at 3.

E. Fingerprints

Next, section 560.003 of the Government Code provides "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the PIA]." TEX. GOV'T CODE ANN. § 560.003 (Vernon 2004). "Biometric identifier" includes a fingerprint. *Id.* § 560.001(1). Section 560.002 provides a governmental body may not sell, lease, or otherwise disclose a fingerprint unless

(A) the individual consents to the disclosure;

(B) the disclosure is required or permitted by a federal statute or by a state statute other than [the PIA]; or

(C) the disclosure is made by or to a law enforcement agency for a law enforcement purpose[.]

Id. § 560.002(1)(A)-(C). Under section 560.002(1)(A), with proper consent, an authorized representative of the individual to whom the fingerprints belong has a right to obtain the individual's fingerprints. *Id.* § 560.002(1)(A); Tex. Att'y Gen. OR2009-00191 at 2. In addition, because an individual can consent to the disclosure of his or her fingerprints under the statute, the individual has a right to his or her own fingerprints. TEX. GOV'T CODE ANN. § 560.002(1)(A) (Vernon 2004); *cf. Hutchins v. Tex. Rehab. Comm'n*, 544 S.W.2d 802, 804 (Tex. Civ. App.—Austin 1976, no writ) (recognizing patient's right to inspect own records where statute allows patient to consent to disclosure); Tex. Att'y Gen. ORD-613 (1993) at 3-4 ("[t]he subject's power to consent to release of the [Texas Racing C]ommission's investigatory file implicitly provides the subject a right of access to the file" under confidentiality statute). Absent information establishing the applicability of a permissible disclosure under the statute, the portion of a document disclosing a fingerprint is confidential under section 560.003 and therefore excepted from disclosure under section 552.101 of the PIA. TEX. GOV'T CODE ANN. §§ 552.101, 560.003 (Vernon 2004).

F. L-2 and L-3 Declarations

Under section 1701.306(b) of the Occupations Code, two forms required by the Texas Commission on Law Enforcement Officer Standards and Education ("TCLEOSE") for issuing a license to a person as an officer or county jailer are confidential: the Licensee

Medical Condition Declaration (L-2) and the Licensee Psychological and Emotional Health Declaration (L-3). TEX. OCC. CODE ANN. § 1701.306(b) (Vernon 2004). Section 1701.306 provides in part as follows:

(a) [TCLEOSE] may not issue a license to a person as an officer or county jailer unless the person is examined by:

(1) a licensed psychologist or by a psychiatrist who declares in writing that the person is in satisfactory psychological and emotional health to serve as the type of officer for which a license is sought; and

(2) a licensed physician who declares in writing that the person does not show any trace of drug dependency or illegal drug use after a physical examination, blood test, or other medical test.

(b) An agency hiring a person for whom a license as an officer or county jailer is sought shall select the examining physician and the examining psychologist or psychiatrist. The agency shall prepare a report of each declaration required by Subsection (a) and shall maintain a copy of the report on file in a format readily accessible to the commission. A declaration is not public information.

Id. § 1701.306(a), (b). We have attached to this decision copies of L-2 and L-3 forms. *See* Appendix D. These forms when completed “are not public information” under section 1701.306(b) and, thus, are excepted from public disclosure under section 552.101.³ *Id.* § 1701.306(b); TEX. GOV'T CODE ANN. § 552.101 (Vernon 2004).

G. Motor Vehicle Record Information

Section 552.130(a) of the Government Code provides in relevant part:

Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

³Section 1701.306(b) does not apply to any record attached to an L-2 or L-3 declaration. TEX. OCC. CODE ANN. § 1701.306(b) (Vernon 2004). However, such records may be confidential under other statutes.

(2) a motor vehicle title or registration issued by an agency of this state[.]

TEX. GOV'T CODE ANN. § 552.130(a)(1), (2) (Vernon 2004). Because the statute applies to information related to a license or permit "issued by an agency of this state" or a title or registration "issued by an agency of this state," section 552.130 does not apply to out-of-state motor vehicle record information. *Id.*; Tex. Att'y Gen. OR2009-15181 at 9. We determine that section 552.130 excepts from required public disclosure a Texas driver's license number, a copy of a Texas driver's license, a Texas license plate number, the portion of a photograph that reveals a Texas license plate number, and the portion of any video depicting a discernible Texas license plate number.⁴ TEX. GOV'T CODE ANN. § 552.130(a)(1) (Vernon 2004). This decision does not apply to motor vehicle information in a peace officer's accident report completed pursuant to chapter 550 of the Transportation Code. *See* TEX. TRANSP. CODE ANN. § 550.065 (Vernon Supp. 2009) (concerning release of information relating to motor vehicle accidents).

H. Access Device Information

Section 552.136 of the Government Code reads as follows:

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

- (1) obtain money, goods, services, or another thing of value;
or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

⁴If a governmental body lacks the technological capability to redact the Texas motor vehicle record information from a requested video, it must seek a ruling from this office if it wishes to withhold the information from required public disclosure.

This decision does not address the question of the permissible disclosure of motor vehicle record information under chapter 730 of the Transportation Code, the Motor Vehicle Records Disclosure Act, by an agency that compiles or maintains such records. *See* TEX. TRANSP. CODE ANN. §§ 730.003(1) (Vernon 1999) (defining "agency" to which chapter 730 applies); 730.004 (Vernon Supp. 2009) (prohibiting agency disclosure of personal information in motor vehicle records except in certain circumstances).

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

TEX. GOV'T CODE ANN. § 552.136 (Vernon 2004). This office has determined that an insurance policy number, a bank account number, and a bank routing number are each an "access device" as defined in subsection (a). Tex. Att'y Gen. OR2009-16644 at 2, Tex. Att'y Gen. OR2009-06975 at 4. Accordingly, these access device numbers as well as credit card, debit card and charge card numbers, or any portion of those numbers (*i.e.*, the last four digits), are excepted from disclosure based on section 552.136(b). TEX. GOV'T CODE ANN. § 552.136(b) (Vernon 2004).

I. E-Mail Addresses

Section 552.137 of the Government Code reads as follows:

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract;

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or

(5) provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by Section 2001.003(2) of this code, or receiving orders or decisions from a governmental body.

(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

Id. § 552.137. Thus, unless an exception under subsection (c) of the statute applies, an e-mail address of a member of the public provided for the purpose of communicating electronically with a governmental body is confidential. *Id.* § 552.137(a). Section 552.137(a) is not applicable to an institutional e-mail address, an internet website address, or an e-mail address a governmental body provides for the use of its officials or employees. Because a person may consent to the disclosure of his or her e-mail address under the statute, the person has a right to his or her own e-mail address. *Id.* § 552.137(b); *cf. Hutchins v. Tex. Rehab. Comm'n*, 544 S.W.2d 802, 804 (Tex. Civ. App.—Austin 1976, no writ) (implying patient's right to inspect own records where statute allows patient to consent to disclosure); Tex. Att'y Gen. ORD-613 (1993) at 3 ("[t]he subject's power to consent to release of the [Texas Racing C]ommission's investigatory file implicitly provides the subject a right of access to the file" under statute). We have attached to this decision sample markings that demonstrate the application of this exception. *See* Appendix E.

J. Military Discharge Records

Finally, section 552.140 of the Government Code provides as follows:

(a) This section applies only to a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003.

(b) The record is confidential for the 75 years following the date it is recorded with or otherwise first comes into the possession of a governmental body. During that period the governmental body may permit inspection or copying of the record or disclose information contained in the record only in accordance with this section or in accordance with a court order.

(c) On request and the presentation of proper identification, the following persons may inspect the military discharge record or obtain from the governmental body free of charge a copy or certified copy of the record:

- (1) the veteran who is the subject of the record;
- (2) the legal guardian of the veteran;
- (3) the spouse or a child or parent of the veteran or, if there is no living spouse, child, or parent, the nearest living relative of the veteran;
- (4) the personal representative of the estate of the veteran;
- (5) the person named by the veteran, or by a person described by Subdivision (2), (3), or (4), in an appropriate power of attorney executed in accordance with Section 490, Chapter XII, Texas Probate Code;
- (6) another governmental body; or
- (7) an authorized representative of the funeral home that assists with the burial of the veteran.

(d) A court that orders the release of information under this section shall limit the further disclosure of the information and the purposes for which the information may be used.

(e) A governmental body that obtains information from the record shall limit the governmental body's use and disclosure of the information to the purpose for which the information was obtained.

TEX. GOV'T CODE ANN. § 552.140 (Vernon Supp. 2009). Thus, unless an exception under subsection (c) of the statute applies or a court orders disclosure, a Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003, is confidential under section 552.140(b) and therefore excepted from required public disclosure. *Id.* § 552.140(b).

III. Qualifications to this Previous Determination

A. Section 552.023 Right of Access

We next address two situations in which several of the exceptions to disclosure we have addressed do not apply. First, under section 552.023 of the Government Code, the confidentiality of information protected under the following three exceptions does not apply: section 552.101 in conjunction with the common-law right to privacy, sections 552.130, and 552.136. Section 552.023 reads as follows:

(a) A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests.

(b) A governmental body may not deny access to information to the person, or the person's representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person's privacy interests.

....

(e) Access to information under this section shall be provided in the manner prescribed by Sections 552.229 and 552.307.

TEX. GOV'T CODE ANN. § 552.023(a), (b), (e) (Vernon 2004); *see also id.* § 552.229 (concerning consent for release of information under section 552.023 right of access). The protection of sections 552.130 and 552.136 is grounded in privacy principles.⁵ Thus, when the requestor is the person or the authorized representative of the person whose privacy interests are protected under section 552.101 in conjunction with the common-law right to privacy, section 552.130, or section 552.136, then the requestor has a right of access under section 552.023 to the information protected from disclosure under those exceptions, and a

⁵Some of the other statutes and exceptions we have addressed are similarly grounded in privacy principles, but those other statutes and exceptions provide the exclusive statutory right for the individual whose privacy is implicated to gain access to the protected information. *See* 8 U.S.C.A. § 1324a(b)(5) (West 2005) (limiting use of Form I-9 to enforcement of certain federal laws); 26 U.S.C.A. § 6103(e)(7) (West Supp. 2009) (permitting disclosure of tax return information to any person authorized by subsection (e) if Secretary of Treasury determines such disclosure would not seriously impair tax administration); *Lake v. Rubin*, 162 F.3d 113, 116 (D.C. Cir. 1998) (26 U.S.C. § 6103 represents exclusive statutory route for taxpayer to gain access to own return information and overrides individual's right of access under Privacy Act, 5 U.S.C. § 552a); TEX. GOV'T CODE ANN. §§ 552.137(b) (Vernon Supp. 2009) (permitting disclosure if owner of e-mail consents); 552.140(c) (permitting disclosure of military discharge record to veteran who is subject of record); 560.002(1)(A) (Vernon 2004) (permitting disclosure of biometric identifier when individual consents).

governmental body may not withhold the information addressed in this decision from that requestor under those exceptions.⁶ *Id.* § 552.023(a).

B. Death of Individual Whose Privacy is Protected

A second situation in which certain exceptions we have addressed do not apply is when the protection of the exception lapses due to the death of the individual whose privacy the exception protects. These exceptions are: section 552.101 in conjunction with the common-law right to privacy, section 552.101 in conjunction with section 560.003, sections 552.130, 552.136, and 552.137. The sole purpose of each of these exceptions is to protect the privacy interests of individuals. The right of privacy is purely personal and terminates upon the death of the person whose privacy is invaded. *Moore v. Charles B. Pierce Film Enter.s, Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.) (Texas does not recognize relational or derivative right of privacy). Furthermore, we find no indication in any of these exceptions that the Legislature intended the protection to apply when the individual is deceased.⁷ Thus, if the individual to whom the information relates is deceased, the listed exceptions do not apply. However, for sections 552.130 and 552.136, if the information belongs to a living individual in addition to the deceased, the protection of sections 552.130 and 552.136 does not lapse. A governmental body may presume the person whose information is at issue is living unless the facts before it show otherwise.

⁶If a governmental body seeks to withhold information subject to a right of access under section 552.023 under an exception other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, the governmental body must request a decision from this office. TEX. GOV'T CODE ANN. § 552.307(a) (Vernon Supp. 2009). If a decision is not requested under section 552.307(a), the governmental body must release the information to the person with a special right of access under section 552.023 not later than the tenth business day after the date of receiving the request for information. *Id.* § 552.307(b).

⁷Whether a confidentiality statute lapses on the death of the subject of the information is a question of statutory construction. Tex. Att'y Gen. Op. No. DM-61 (1991) at 3. This office has determined a confidentiality provision will lapse on the death of the subject of the information when the only purpose of the statute is to protect a living person's privacy and the statute does not address release of confidential information after the subject's death or when the statute refers only to living persons. *See id.* at 4-5 (finding lapse of confidentiality where AIDS test results confidentiality provisions referred to living persons and legislative history indicated legislature intended to protect persons with positive test results from discrimination particularly in employment and insurance); Tex. Att'y Gen. ORD-536 (1989) at 2-3 (holding rationale of provision protecting police officer's photograph ceases to apply after death of officer), Tex. Att'y Gen. ORD-524 (1989) at 3-4 (confidentiality of student records under Government Code section 552.114 lapses upon death). Thus, the confidentiality does not lapse when the statute expressly addresses release of the information after the subject's death, *see, e.g.*, Tex. Att'y Gen. Op. Nos. JM-851 (1988) at 2 (finding nothing in three applicable statutes indicates confidentiality applies only during lifetime of subject of information), JM-229 (1984) at 4 (finding protection of Medical Practice Act continues after death of patient because statute refers to release of records when patient is deceased), or when the statute protects more than an individual's privacy interests, *see, e.g.*, Tex. Att'y Gen. OR1997-00271 at 2 (ruling Education Code section 21.355 does not lapse as it protects more than teacher's privacy interests).

SUMMARY

This decision is intended to encourage the prompt release of requested public information and increase the efficiency of the PIA review process by clearly identifying certain types of information that governmental bodies may withhold without the delay of requesting an attorney general decision.

This decision shall serve as a previous determination for any governmental body subject to the PIA to withhold the following information under the following exceptions:

- (1) a direct deposit authorization form under section 552.101 in conjunction with the common-law right to privacy;
- (2) a Form I-9 and attachments under section 552.101 in conjunction with section 1324a of title 8 of the United States Code;
- (3) W-2 and W-4 forms under section 552.101 in conjunction with section 6103(a) of title 26 of the United States Code;
- (4) a certified agenda and tape of a closed meeting under section 552.101 in conjunction with section 551.104 of the Government Code;
- (5) a fingerprint under section 552.101 in conjunction with section 560.003 of the Government Code;
- (6) L-2 and L-3 declarations under section 552.101 in conjunction with section 1701.306 of the Occupations Code;
- (7) a Texas driver's license number, a copy of a Texas driver's license, a Texas license plate number, the portion of a photograph that reveals a Texas license plate number, and the portion of any video depicting a discernible Texas license plate number under section 552.130;
- (8) a credit card number, debit card number, charge card number, insurance policy number, bank account number, and bank routing number under section 552.136;
- (9) an e-mail address of a member of the public under section 552.137; and

(10) a Form DD-214 or other military discharge record that is first recorded or first comes into the possession of a governmental body on or after September 1, 2003.

So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above and unless otherwise authorized to release the information according to applicable law, a governmental body need not ask for a decision from this office in order to withhold from required public disclosure the categories of information and exceptions to disclosure addressed in this decision. A governmental body that relies on this or any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.

Very truly yours,

A handwritten signature in black ink, appearing to read "Greg Abbott", is written over the typed name.

GREG ABBOTT
Attorney General of Texas

ANDREW WEBER
First Assistant Attorney General

JONATHAN K. FRELS
Deputy Attorney General for Legal Counsel

AMANDA CRAWFORD
Chief, Open Records Division

Kay Hastings
Assistant Attorney General, Open Records Division

APPENDIX A - E
CAN BE FOUND ON THE ATTORNEY GENERAL'S WEB SITE
WWW.OAG.STATE.TX.US