



May 19, 1999

Mr. Saul Pedregon  
Assistant City Attorney  
City of Dallas  
Criminal Law & Police Section  
2014 Main Street, Room 206  
Dallas, Texas 75201

OR99-1379

Dear Mr. Pedregon:

You have asked whether certain information is subject to required public disclosure under the Texas Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 124361.

The City of Dallas Police Department (the "department") received a request for two categories of information concerning a specified police officer. In response to the request, you submit to this office for review the information at issue. In your original brief to this office, dated March 2, 1999, you asserted that the requested information is excepted from disclosure based on sections 552.101, 552.103, and 552.108 of the Government Code. However, in subsequent correspondence, dated March 8, 1999, you state that "[u]pon further review, the City has decided to withdraw it's [sic] objection to the release of this information on the previously asserted grounds. We are, however, withholding a portion of the information," concerning polygraph test results pursuant to section 552.101. We have considered the arguments you have raised and have reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by statute. Section 19A of article 4413(29cc) of the Texas Civil Statute, which governs the release of polygraph examinations, reads in pertinent part as follows:

(c) A licensed polygraph examiner, licensed trainee, or employee of a licensed polygraph examiner may disclose information acquired from a polygraph examination to:

- (1) the examinee or any other person specifically designated in writing by the examinee;
  - (2) the person . . . or governmental agency that requested the examination;
  - (3) members or their agents of governmental agencies such as federal, state, county, or municipal agencies that license, supervise, or control the activities of polygraph examiners;
  - (4) other polygraph examiners in private consultation, all of whom will adhere to this section; or
  - (5) others as may be required by due process of law.
- (d) A person for whom a polygraph examination is conducted or an employee of the person may disclose information acquired from the examination to a person described by Subdivisions (1) through (5) of Subsection (c) of this section.
- (e) The board or any other governmental agency that acquires information from a polygraph examination under Subdivision (3) of Subsection (c) of this section shall keep the information confidential.

You represent that “[t]he requestor does not fall within the terms of subsection 19A(c),” as a party to whom the “polygraph examiner may disclose the information.” Therefore, based on our review of the submitted records, we agree that the polygraph exam results are excepted from this requestor pursuant to section 552.101 and the cited statute. Since you have withdrawn your “previously asserted grounds” for withholding the requested information, we assume other responsive records have been released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Sam Haddad

Assistant Attorney General  
Open Records Division

SH/nc

Ref.: ID# 124361

cc: Mr. Harold Cornish  
601 Nora Lane  
DeSoto, Texas 75115  
(w/o enclosures)