



March 21, 2001

Ms. J. Middlebrooks
Assistant City Attorney
City of Dallas
2014 Main Street, Room 501
Dallas, Texas 75201

OR2001-1119

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 145158.

The Dallas Police Department (the "department") received a request for a copy of a report completed in December 2000 listing the names of police officers hired between 1995 and 1998 who had A and B misdemeanor convictions and the officers' status with the department. You claim that the requested information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.¹

Initially, we note that the submitted information is a completed report. Section 552.022 of the Government Code makes certain information expressly public, and therefore not subject to discretionary exceptions to disclosure unless the information is made confidential by law. One category of public information under section 552.022 is "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by

¹ You submitted to us for review a list of personnel hired in 1994 and 1995 who had either been convicted of a Class A or B misdemeanor or had admitted during the application process to their involvement in a Class A or B misdemeanor offense although they had not been charged or arrested for their actions. You inform us that the department has released the names of four officers to the requestor who have had misdemeanor convictions. We assume for purposes of this letter ruling that the information you submitted to us for review is entirely responsive to the request for a report listing names of officers hired between 1995 and 1998 who had Class A or B misdemeanor convictions.

[s]ection 552.108[.]” Gov’t Code § 552.022(a)(1). We must consider whether the information is made confidential by law. Pursuant to section 1703.306, information acquired from a polygraph examination may not be disclosed, unless it falls into one of that section’s narrow exceptions. The relevant language of section 1703.306 provides as follows:

(a) A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

- (1) the examinee or any other person specifically designated in writing by the examinee;
- (2) the person that requested the examination;
- (3) a member, or the member’s agent, of a governmental agency that licenses a polygraph examiner or supervises or controls a polygraph examiner’s activities;
- (4) another polygraph examiner in private consultation; or
- (5) any other person required by due process of law.

Occ. Code, § 1703.306. You state that the information in the report was obtained during the application process through polygraph examinations. It does not appear that any of the exceptions in section 1703.306 apply in this case. Accordingly, the information is confidential pursuant to section 1703.306 of the Occupations Code and is, therefore, excepted from disclosure under section 552.101 of the Government Code. Because our finding under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code is dispositive, we need not address the applicability of section 552.101 in conjunction with the common law right to privacy.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the

governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

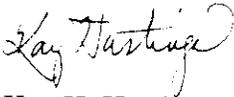
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/RJB/seg

Ref: ID# 145158

Encl. Submitted documents

cc: Ms. Connie Piloto
Dallas Morning News
P.O. Box 655237
Dallas, Texas 75265
(w/o enclosures)