



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 29, 2010

Ms. J. Middlebrooks  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2010-17730

Dear Ms. Middlebrooks:

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# 401523 (DPD Public Information request # 2010-8438).

The Dallas Police Department (the "department") received a request for specified information about a named officer. You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes, including section 1703.306 of the Occupations Code. Section 1703.306(a) provides "[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

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<sup>1</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

polygraph examination to another person[.]” We agree the submitted information contains polygraph information that is confidential under section 1703.306, and the requestor does not appear to have a right of access to the information under that section; therefore, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code.

You assert some of the remaining information is excepted under section 552.117 of the Government Code. Section 552.117(a)(2) excepts the home addresses and telephone numbers, social security numbers, and family member information of a peace officer as defined by Article 2.12 of the Code of Criminal Procedure, regardless of whether the officer made an election under section 552.024 of the Government Code. Gov’t Code § 552.117(a)(2); *see* Open Records Decision No. 622 (1994). We agree the department must withhold the information you have marked under section 552.117(a)(2).<sup>2</sup>

We note some of the remaining information may be excepted under section 552.1175 of the Government Code, which provides in part the following:

Information that relates to the home address, home telephone number, or social security number of [a peace officer as defined by article 2.12 of the Code of Criminal Procedure], or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual’s choice on a form provided by the governmental body, accompanied by evidence of the individual’s status.

Gov’t Code § 552.1175(b). The submitted documents contain information pertaining to an officer who does not work for the department. If this individual is currently a licensed peace officer who elects to restrict access to this information in accordance with section 552.1175(b), the department must withhold the information, which we have marked, under section 552.1175.

Some of the remaining information is excepted under section 552.130 of the Government Code, which provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from

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<sup>2</sup> We note a government body may withhold a peace officer’s home address and telephone number, personal cell phone and pager numbers, social security number, and family member information under section 552.117(a)(2) without requesting a decision from this office. *See* Open Records Decision No. 670 (2001); Gov’t Code § 552.147(b).

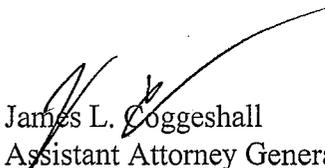
public release.<sup>3</sup> Gov't Code § 552.130(a)(1), (2). The department must withhold the Texas motor vehicle record information we have marked under section 552.130.<sup>4</sup>

To conclude, the department must withhold the information marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code, and under sections 552.117(a)(2) and 552.130 of the Government Code. The department must also withhold the information we have marked under section 552.1175 of the Government Code if it pertains to an individual who is currently a licensed peace officer and who elects to restrict access to this information in accordance with section 552.1175(b). The department must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/bs

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<sup>3</sup> The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); *see e.g.*, Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

<sup>4</sup> We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion.

Ref: ID# 401525

Enc. Submitted documents

c: Requestor  
(w/o enclosures)