



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 12, 2010

Ms. Donna L. Clarke
Assistant Criminal District Attorney
Civil Division
Criminal District Attorney
P.O. Box 10536
Lubbock, Texas 79408-3536

OR2010-12248

Dear Ms. Clarke:

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# 390704.

The Lubbock County Sheriff (the "sheriff") received a request for documents relating to any complaint by a named individual regarding her health, welfare, safety, or sexual assault during her incarceration at the Lubbock County Jail. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information other statutes make confidential, such as section 1703.306 of the Occupations Code, which provides:

(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(a). You have marked the information you claim is excepted under section 1703.306. You do not indicate the requestor falls into any of the categories of individuals who are authorized to receive the polygraph information under section 1703.306(a). Upon review, we agree the information we have marked was acquired from a polygraph examination and is, therefore, within the scope of section 1703.306. Accordingly, the sheriff must withhold this information under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. You have failed to demonstrate, however, how the remaining information you seek to withhold was acquired from a polygraph examination. Thus, this information may not be withheld under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code.

We note a portion of the remaining information is subject to section 552.117 of the Government Code.¹ Section 552.117(a)(2) excepts from disclosure the current and former home addresses and telephone numbers, social security numbers, and family member information regarding a peace officer regardless of whether the officer requested confidentiality under section 552.024 or 552.1175 of the Government Code.² Gov't Code § 552.117(a)(2). Accordingly, the sheriff must withhold the information we have marked pursuant to section 552.117(a)(2).

In summary, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. The sheriff must withhold the information we have marked under

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²"Peace officer" is defined by Article 2.12 of the Texas Code of Criminal Procedure.

section 552.117 of the Government Code. As you raise no further exceptions to disclosure, the remaining information must be released.³

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, 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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/tp

Ref: ID# 390704

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the requestor, as the attorney for the individual whose information is at issue, has a special right of access to some of the information being released in this instance. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Because such information may be confidential with respect to the general public, if the sheriff receives another request for this information from an individual other than this requestor, it should again seek a ruling from this office. *See* Gov't Code §§ 552.301, .302.