



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 1, 2011

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

OR2011-01634

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# 407767 (PIR# 2010-10443).

The Dallas Police Department (the "department") received a request for specified employment records pertaining to a named department officer. You claim portions of the requested information are excepted from disclosure under sections 552.101, 552.117, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

You seek to withhold the submitted peace officer's accident report that appears to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). 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. Section 552.101 encompasses information other statutes make confidential, such as section 550.065(b) of the Transportation Code, which states, except as provided by subsection (c) or subsection (e), accident reports are privileged for the confidential use of certain specified entities. *See* Transp. Code § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides

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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.

two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, a governmental entity is required to release a copy of an accident report to a person who provides two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has not provided the department with at least two of the three items of information specified by section 550.065(c)(4). Therefore, the department must withhold the submitted accident report pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Section 552.101 also encompasses 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.

(b) The [Texas Department of Licensing and Regulation] or any other governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information.

(c) A polygraph examiner to whom information acquired from a polygraph examination is disclosed under Subsection (a)(4) may not disclose the information except as provided by this section.

Occ. Code § 1703.306. Upon review, we agree the information you have marked in the remaining personnel records was acquired from a polygraph examination and is, therefore, within the scope of section 1703.306. It does not appear the requestor falls into any of the categories of individuals who are authorized to receive the polygraph information under section 1703.306(a). Accordingly, 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.

We note the remaining information includes information that is excepted from disclosure under section 552.102(a) of the Government Code.<sup>2</sup> Section 552.102(a) excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex. & The Dallas Morning News, Ltd.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010) (Dec. 20, 2010, motions for reconsideration and rehearing pending). We have marked the information that must be withheld under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home addresses, home telephone numbers, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code.<sup>3</sup> Gov’t Code § 552.117(a)(2). You have marked the named officer’s personal information in the remaining employment records. Thus, the department must withhold this information, and the additional personal information we have marked, under section 552.117(a)(2) of the Government Code.

You claim 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 or driver’s license issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1). You have marked the officer’s Texas driver’s license number, type, expiration date, and restrictions. The department must withhold this information under section 552.130 of the Government Code.<sup>4</sup>

You assert some of the remaining information is excepted under section 552.136 of the Government Code, which provides “[n]otwithstanding any other provision of [the Act], 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.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). You seek to withhold the officer’s employee

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception like section 552.102 on behalf of a governmental body, but ordinarily will not raise other exceptions.

<sup>3</sup>“Peace officer” is defined by Article 2.12 of the Texas Code of Criminal Procedure.

<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 Texas driver’s license numbers under section 552.130, without the necessity of requesting an attorney general decision.

identification number under section 552.136. You inform us an employee's identification number is used in conjunction with one additional digit in order to access the employee's credit union account. Thus, we find the department must withhold the employee identification number you have marked under section 552.136 of the Government Code.

In summary, the department must withhold the submitted peace officer's accident report pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code; the marked polygraph information under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code; the marked information under section 552.102(a) of the Government Code; the marked personal information under section 552.117(a)(2) of the Government Code; the marked Texas driver's license information under section 552.130 of the Government Code; and the marked employee identification number under section 552.136 of the Government Code. The remaining information must be released.

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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 407767

Enc. Submitted documents

c: Requestor  
(w/o enclosures)