



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 3, 2014

Mr. Jeffery W. Giles
Assistant City Attorney
Legal Department
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2014-05508

Dear Mr. Giles:

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# 518568 (GC No. 21115).

The Houston Fire Department (the "department") received a request for the requestor's polygraph examination results for a specified case. 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.

Initially, we note the majority of the submitted information is not responsive to the present request. The requestor only seeks his polygraph examination results. Accordingly, only the requestor's examination results are responsive to this request. This ruling does not address the public availability of non-responsive information and the department need not release the non-responsive information in response to this request.

Next, the requestor contends he has a right of access to the responsive information under section 143.124 of the Local Government Code. Pursuant to section 143.124(c), "[t]he fire department shall, on the written request of a fire fighter, provide to the fire fighter the *complainant's* polygraph examination results within 48 hours after the request." Local Gov't Code § 143.124(c) (emphasis added). The responsive information does not contain the complainant's polygraph examination results. Thus, section 143.124(c) of the Local Government Code is not applicable to the information at issue.

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 section 1703.306 of the Occupations Code, which provides the following:

(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[.]

Occ. Code § 1703.306. Upon review, we find the responsive information, which we have marked, constitutes information acquired from a polygraph examination. However, in this instance, the requestor is the polygraph examinee. Thus, the department has the discretion to release the requestor's polygraph information pursuant to section 1703.306(a)(1). *See* Open Records Decision No. 481 at 9 (1987) (predecessor to section 1703.306 permitted, but did not require, examination results to be disclosed to examinees). Otherwise, the department must withhold the responsive polygraph information under section 552.101 of the Government Code in conjunction with section 1703.306(a) of the Occupations Code.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

¹As our ruling is dispositive, we need not address your arguments.

Ref: ID# 518568

Enc. Submitted documents

c: Requestor
(w/o enclosures)