



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 14, 2016

Ms. Ann-Marie Sheely
Assistant County Attorney
Travis County Attorney's Office
P.O. Box 1748
Austin, Texas 78767

OR2016-08385

Dear Ms. Sheely:

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# 605700.

The Travis County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified internal affairs case. You state the sheriff's office will release some of the requested information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, the sheriff's office asserts the instant request is invalid under the Act. The Act requires a request for public information sent by electronic mail be submitted to the officer for public information or that person's designee. *Id.* § 552.301(c). You state the requestor

¹We note the requestor contends the sheriff's office failed to comply with its procedural obligations under the Act. *See* Gov't Code § 552.301(b). However, the sheriff's office raises only section 552.101 of the Government Code, which can provide a compelling reason to withhold information. *Id.* § 552.302. Thus, we will address the applicability of this exception to the information at issue.

e-mailed his request to an employee who is neither the sheriff's office's public information officer nor a person authorized by the public information officer to receive a request submitted by e-mail. Accordingly, you argue the e-mailed request was not a valid written request, and therefore did not require the sheriff's office to respond. Nevertheless, because you have requested a decision on the submitted information and otherwise treated the request as having been properly submitted, we will consider the sheriff's office's argument against disclosure of 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." *Id.* § 552.101. This section encompasses section 1703.306 of the Occupations Code, which provides, in relevant part, 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(a)(1). Upon review, we find the information you have marked constitutes information acquired from a polygraph examination. However, in this instance, the requestor's client is the polygraph examinee. Thus, the sheriff's office has the discretion to release the polygraph information at issue to this requestor pursuant to section 1703.306(a)(1) of the Occupations Code. *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 sheriff's office must withhold the polygraph information you have marked under section 552.101 of the Government Code in conjunction with section 1703.306(a) of the Occupations Code. The sheriff's office 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.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,

A handwritten signature in black ink, appearing to read "Lee Seidlits", written in a cursive style.

Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/bw

Ref: ID# 605700

Enc. Submitted documents

c: Requestor
(w/o enclosures)