



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 9, 2015

Mr. John P. Beauchamp
General Counsel
Texas Commission on Law Enforcement
6330 East Highway 290, Suite 200
Austin, Texas 78723-1035

OR2015-23479

Dear Mr. Beauchamp:

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# 588636.

The Texas Commission on Law Enforcement (the "commission") received a request for the F-5 Reports of Separation of Licensee ("F-5 reports") for two named individuals. 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 understand you seek to withhold the requested information pursuant to Open Records Letter No. 2004-2523 (2004). Open Records Letter No. 2004-2523 permitted the commission to withhold F-5 reports under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code where the exceptions to confidentiality enumerated in section 1701.454 do not apply without requesting a decision from this office. However, in 2005 and 2011 the Texas legislature amended section 1701.454. *See* Act of May 23, 2011, 82nd Leg., R.S., S.B. 545, § 4 (codified as section 1701.454 of the Government Code); *see also* Act of May 30, 2005, 79th Leg., R.S., H.B. 2677, § 4 (codified as section 1701.454 of the Government Code). Therefore, the law on which Open Records Letter No. 2004-2523 was based has changed and the commission may not rely on this ruling as a previous determination. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Therefore, we will address your argument under section 552.101 of the Government Code 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.” Gov’t Code § 552.101. This section encompasses information protected by other statutes such as section 1701.454 of the Occupations Code, which governs the public availability of information submitted to the commission under subchapter J of chapter 1701 of the Occupations Code. Section 1701.454 provides as follows:

(a) All information submitted to the commission under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code, unless the person resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses.

(b) Except as provided by this subchapter, a commission member or other person may not release information submitted under this subchapter.

Occ. Code § 1701.454. You assert the submitted information is subject to section 1701.454. The submitted information reveals the officers whose information is at issue did not resign or were not terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses. Therefore, the commission must withhold the submitted F-5 reports under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 588636

Enc. Submitted documents

c: Requestor
(w/o enclosures)