



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 1, 2016

Mr. Nick Lealos
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2016-02406

Dear Mr. Lealos:

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# 596385 (PIR # 15-5738).

The Texas Department of Public Safety (the "department") received a request for the concealed handgun license student test form and answer key. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.122 of the Government Code. We have considered the exceptions 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 protected by other statutes. Section 411.192 of the Government Code governs the release of all information maintained by the department concerning the licensure of individuals to carry a concealed handgun, and provides as follows:

- (a) The department shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, zip code, telephone number, e-mail address, and Internet website address. Except as otherwise provided by this section and by Section 411.193, all other records maintained

under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552.

Id. § 411.192(a). Section 411.192 provides for the confidentiality of information maintained pursuant to subchapter H of chapter 411 of the Government Code. You explain the submitted concealed handgun license student test questions and answer key are used by instructors to assess answers to the test and are maintained by the department pursuant to subchapter H of chapter 411. Subchapter H specifically provides the department “shall develop . . . examinations to measure handgun proficiency,” which must include a written examination the department is required to distribute to qualified handgun instructors. *Id.* § 411.188(a), (d)(1), (f). *See generally id.* § 411.174(a)(7) (requiring concealed handgun license applicant to submit to the department evidence of handgun proficiency). Based on your representations and our review, we determine the submitted information is maintained by the department pursuant to subchapter H. We note the exceptions in section 411.192 are not applicable in this instance. Further, section 411.193 is not applicable because the submitted information does not constitute a statistical report. *Id.* § 411.193 (making a statistical report including the number of licenses issued, denied, revoked, or suspended by the department during the preceding month available to the public). Therefore, the department must withhold the submitted test questions and answer key under section 552.101 in conjunction with section 411.192(a).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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 596385

Enc. Submitted documents

c: Requestor
(w/o enclosures)