



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 20, 2018

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

OR2018-03923

Dear Mr. Beachamp:

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# 697114.

The Texas Commission on Law Enforcement (the "commission") received a request for administrative hearing rulings for a named individual. The commission claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 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 [the Act], 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. Section 1701.4525 of the Occupations Code also reads, in part, as follows:

(a) A person who is the subject of an employment termination report maintained by the commission under this subchapter may contest information contained in the report by submitting to the law enforcement agency and to the commission a written petition on a form prescribed by the commission for a correction of the report not later than the 30th day after the date the person receives a copy of the report. On receipt of the petition, the commission shall refer the petition to the State Office of Administrative Hearings [“SOAH”].

...

(e) In a proceeding to contest information in an employment termination report for a report based on alleged misconduct, an administrative law judge shall determine if the alleged misconduct occurred by a preponderance of the evidence regardless of whether the person who is the subject of the report was terminated or the person resigned, retired, or separated in lieu of termination. If the alleged misconduct is not supported by a preponderance of the evidence, the administrative law judge shall order the commission to change the report. ...

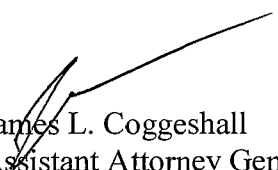
Id. § 1701.4525(a), (e); *see also* 37 T.A.C. § 217.8 (contesting employment termination report). The commission informs us the submitted information consists of an administrative law judge’s Decision and Order resulting from a SOAH hearing to contest information in a Separation of Licensee (F-5) Report that was made in accordance with section 1701.4525. The commission states this information was submitted to the commission pursuant to subchapter J of chapter 1701 of the Occupations Code. *See id.* §§ 1701.4525, .454. Based on these representations and our review, we agree the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code. *See id.* § 1701.454; *see also* 37 T.A.C. § 217.8(j).

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tdw

Ref: ID# 697114

Enc. Submitted documents

c: Requestor
(w/o enclosures)