



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 22, 2020

Ms. Jacqueline Villarreal  
Assistant District Attorney  
Hidalgo County  
100 East Cano Street  
Edinburg, Texas 78539

OR2020-01958

Dear Ms. Villarreal:

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# 807431 (File No. 2019-0199-DA.SO).

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for four categories of information pertaining to a former sheriff's office employee. The sheriff's office states it will release some information. You claim some of the submitted information is not subject to the Act. You also claim the submitted information is excepted from disclosure under sections 552.101, 552.117, and 552.130 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Initially, you state some of the submitted information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2019-35192 (2019). In that ruling, we determined the sheriff's office (1) must withhold all public citizens' dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law; (3) must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with the constitutional right to privacy; (4) if the individual at issue is currently a licensed peace officer as defined by article 2.12 of the Code of Criminal Procedure, then the sheriff's office must withhold the information we have marked under section 552.117(a)(2) of the Government Code; however, the sheriff's office may only withhold

the marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body; (5) if the individual at issue is not currently a licensed peace officer as defined by article 2.12 of the Code of Criminal Procedure but made a timely election under section 552.024 of the Government Code, then the sheriff's office must withhold the information we have marked under section 552.117(a)(1) of the Government Code; however, the sheriff's office may only withhold the marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body; (6) must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code; and (7) must release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the sheriff's office must continue to rely on Open Records Letter No. 2019-35192 as a previous determination and withhold or release the information at issue in accordance with that ruling.<sup>1</sup> See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 1701.454 of the Occupations Code, which governs the public availability of information submitted to Texas Commission on Law Enforcement ("TCOLE") under subchapter J of chapter 1701 of the Occupations Code. Section 1701.454 provides as follows:

(a) All information submitted to [TCOLE] 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 [TCOLE] member or other person may not release information submitted under this subchapter.

Occ. Code § 1701.454. The remaining information contains an F-5 Report of Separation of Licensee. You state the officer at issue did not resign nor was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses. Therefore, the sheriff's office must withhold the F-5 report we marked under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code.<sup>2</sup>

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<sup>1</sup> As we are able to make this determination, we need not address your remaining arguments against disclosure of this information.

<sup>2</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

In summary, the sheriff's office must continue to rely on Open Records Letter No. 2019-35192 as a previous determination and withhold or release the information at issue in accordance with that ruling. The sheriff's office must withhold the F-5 report we marked 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Kimbell Kesling  
Attorney  
Open Records Division

KK/be

Ref: ID# 807431

Enc. Submitted documents

c: Requestor  
(w/o enclosures)