



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 20, 2020

Mr. James Kopp  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78207

OR2020-05358

Dear Mr. Kopp:

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# 812400 (ORR No. W293634).

The City of San Antonio (the "city") received a request for separation of license forms pertaining to nine named officers. You state the city will release some information. 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.

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 former section 1701.454 of the Occupations Code. We note the form we marked was created prior to the effective date of the amendment of section 1701.454 by the Seventy-ninth Legislature. *See* Act of May 25, 2005, 79th Leg., R.S., ch. 1298, § 4. Thus, the F-5 form at issue is governed by the previous version of section 1701.454. *See id.* Former section 1701.454 provides as follows:

(a) A report or statement 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 subsection, a Texas Commission on Law Enforcement [{"TCOLE"}] member or other person may not release the

contents of a report or statement submitted under this subchapter. The report or statement may be released only by the [TCOLE] employee having the responsibility to maintain the report or statement and only if:

(1) the head of a law enforcement agency or the agency head's designee makes a written request on the agency's letterhead for the report or statement accompanied by the agency head's or designee's signature; and

(2) the person who is the subject of the report or statement authorizes the release by providing a sworn statement on a form supplied by [TCOLE] that includes the person's waiver of liability regarding an agency head who is responsible for or who takes action based on the report or statement.

Occ. Code § 1701.454 (repealed 2005). Upon review, we find the F-5 form at issue was created prior to the effective date of the amendment of section 1701.454 is not subject to release under the provisions of former section 1701.454. You inform us the officer to whom this form applies was not terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses. Therefore, the city must withhold the F-5 form created prior to the effective date of the amendment of section 1701.454, which we marked, under section 552.101 of the Government Code in conjunction with former section 1701.454 of the Occupations Code.<sup>1</sup>

Section 552.101 of the Government Code also encompasses the current section 1701.454 of the Occupations Code, which governs the public availability of information submitted to 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.

*Id.* § 1701.454. The remaining information consists of F-5 Separation of Licensee forms created after the effective date of the amendment of section 1701.454. You inform us the officers to whom these forms apply were not terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses. Therefore, the city must withhold the remaining F-5 forms under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code.<sup>2</sup>

---

<sup>1</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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

In summary, the city must withhold the F-5 form we marked under section 552.101 of the Government Code in conjunction with former section 1701.454 of the Occupations Code. The city must withhold the remaining F-5 forms 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,



Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/jxd

Ref: ID# 812400

Enc. Submitted documents

c: Requestor  
(w/o enclosures)