



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 25, 2009

Ms. Vanessa A. Gonzalez
Allison, Bass & Associates, L.L.P.
A.O. Watson House
402 West 12th Street
Austin, Texas 78701

OR2009-11970

Dear Ms. Gonzalez:

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# 353453.

The Bandera County Sheriff's Office (the "sheriff"), which you represent, received a request for a specified recording dispatch and a named officer's F-5 form. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that some of the responsive information has been previously ruled upon by this office in Open Records Letter No. 2009-11348 (2009). In Open Records Letter No. 2009-11348 we concluded that the sheriff must withhold the Texas motor vehicle information in the submitted audio recording under section 552.130 of the Government Code and release the remaining information. As we have no indication that the law, facts, and circumstances surrounding this prior ruling has changed, you must continue to rely on Open Records Letter No. 2009-11348 as a previous determination and withhold or release the responsive information in this request that was previously ruled on in accordance with this prior ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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). However, to the extent that the information requested in this instance was not the subject of the ruling in Open Records Letter No. 2009-11348, we will address your argument.

Next, we note that you have redacted portions of the submitted information. The previous determination issued in Open Records Decision No. 670 (2001) authorizes a governmental body to withhold the home addresses and telephone numbers, personal cellular phone and pager numbers, social security numbers, and family member information of peace officers, as defined by article 2.12 of the Code of Criminal Procedure, under section 552.117(a)(2) without the necessity of requesting a decision from this office. See Open Records Decision No. 670 at 6. We note, however, the sheriff has redacted information beyond the information that is encompassed by section 552.117(a)(2). You do not assert, nor does our review of our records indicate, that the sheriff has been authorized to withhold such information without seeking a ruling from this office. See Gov't Code § 552.301(a); ORD 673. Because we can discern the nature of this information, being deprived of this information does not inhibit our ability to make a ruling in this instance. Nevertheless, be advised that a failure to provide this office with requested information generally deprives us of the ability to determine whether information may be withheld and leaves this office with no alternative other than ordering that the redacted information be released. See Gov't Code §§ 552.301(e)(1)(D) (governmental body must provide this office with copy of "specific information requested"), .302.

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 information made confidential by statute, such as section 1701.454 of the Occupations Code. Section 1701.454 governs the public availability of an F-5 form ("Report of Separation of Licensee") submitted to the Texas Commission on Law Enforcement Officer Standards and Education ("TCLEOSE") under subchapter J of chapter 1701 of the Occupations Code. Section 1701.454 provides as follows:

(a) A report or statement submitted to [TCLEOSE] 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 [TCLEOSE] member or other person may not release the contents of a report or statement submitted under this subchapter.

Occ. Code § 1701.454. In this instance, it does not appear that the named officer resigned or was terminated due to substantiated incidents of excessive force or violations of the law

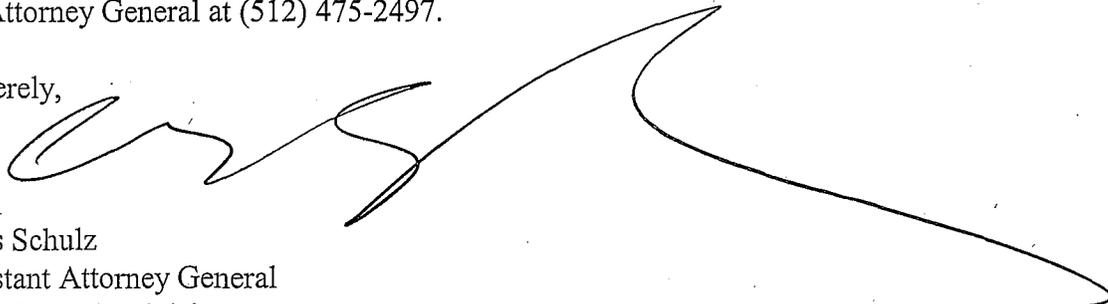
other than traffic offenses. We, therefore, conclude that the sheriff must withhold the submitted F-5 form under section 552.101 of the Government Code in conjunction with section 1701.454 of the Occupations Code.¹

In summary, the sheriff must continue to rely on Open Records Letter No. 2009-11348 (2009) as a previous determination and withhold or release the responsive information in this request that was previously ruled on in accordance with this prior ruling. The sheriff must withhold the submitted F-5 form 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 353453

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

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