



THE ATTORNEY GENERAL
OF TEXAS

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JIM NAYTON
ATTORNEY GENERAL

Mr. Fred Toler
Executive Director
Texas Commission on Law Enforcement
Officer Standards and Education
1606 Headway Circle, Suite 100
Austin, Texas 78754

LO-90-19

Dear Mr. Toler:

You ask about the proper interpretation of sections 415.032 and 415.062 of the Government Code relating to the responsibility of the Commission on Law Enforcement Officer Standards and Education in establishing curriculum and achievement and proficiency certificates.

Section 415.032 was originally enacted by Acts 1987, 70th Legislature, chapter 147, section 1, in 1987. As amended by the 71st Legislature, section 415.032 provides:

(a) The commission may establish minimum curriculum requirements for preparatory, in-service, and advanced courses and programs for schools subject to approval under Section 415.031(b)(1).

Text of (b) as amended by [H.B. 1497] Acts 1989, 71st Leg., ch. 469, § 1

(b) In establishing requirements under this section, the commission shall require courses and programs to provide training in the investigation of cases involving child abuse or neglect.

Text of (b) as amended by [H.B. 1495] Acts 1989, 71st Leg., ch. 773, § 1

(b) In establishing requirements under this section, the commission shall require courses and programs to provide training in the investigation of cases involving child abuse or neglect, family violence, or sexual assault. In addition to this training, the

commission shall direct law enforcement agencies to provide continuing in-house instruction for its officers in the recognition of cases involving child abuse or neglect, family violence, or sexual assault. (Emphasis added.)

You ask whether the commission may read both amendments together for its authority to promulgate rules. A well known rule of statutory construction requires that a statute be construed as a whole, not by reference to an isolated portion thereof, and that all of its parts be harmonized if possible, so as to give effect to the entire act, according to the evident intent of the legislature. 67 Tex. Jur. 3d Statutes § 125.

We do not find the provisions to be inconsistent and believe that it was the intention of the legislature that they be harmonized to give effect to the entire act. This conclusion is supported by the "purpose" paragraph found in the Bill Analysis to House Bill 1495, stating, "HB 1495 will add family violence, or sexual assault training courses to the mandate for child abuse training."

In your second question you ask whether the commission may read both versions of subsections (b) and (b) to (f) of section 415.062 of the Government Code together so as to give effect to the entire section. Section 415.062 addresses the matter of "Professional Achievement and Proficiency Certificates," stating:

(a) The commission shall issue certificates that recognize professional achievement or proficiency based on law enforcement training, education, and experience. For this purpose the commission shall use the employment records of the employing agency.

Text of (b) as added by [S.B. 992]
Acts 1989, 71st Leg., ch. 923, § 1

(b) The commission shall adopt rules and regulations for making achievement awards to peace officers, reserve peace officers, jailers, or custodial officers who are licensed by the commission.

(1) The awards shall be given in the name of the State of Texas and presented at the Capitol during May of each year.

(2) The awards shall be in three areas with the criteria for each area including but not being limited to:

(A) valor -- an act of personal heroism or bravery, which exceeds the normal expectations of job performance, such as placing one's own life in jeopardy to save another person's life, prevent serious bodily injury to another, or prevent the consequences of a criminal act;

(B) public service -- when an individual through initiative creates or participates in a program or system which has a significant positive impact on the general population of a community which would exceed the normal expectations of job performance; and

(C) professional achievement -- when an individual through personal initiative, fixity of purpose, persistence, or endeavor creates a program or system which has a significant positive impact on the law enforcement profession which would exceed the normal expectations of job performance.

(3) The rules shall require recommendations from an elected official of the state or a political subdivision, an administrator of a law enforcement agency, or a person holding a current license issued by the commission.

(4) At the minimum, the award shall consist of a document, an appropriate medal, and a ribbon suitable for wearing on a uniform.

(5) The number of awards presented each year shall not exceed 20.

Text of (b) to (f) as added by
[H.B. 443] Acts 1989, 71st Leg., ch. 1032,
§ 2

(b) The commission shall adopt rules and regulations for making achievement awards to

peace officers, reserve peace officers, or jailers who are licensed by the commission.

(c) The awards shall be given in the name of the State of Texas and presented at the Capitol during May of each year.

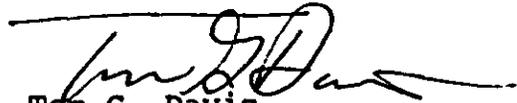
(d) The awards shall be in three areas: valor, public service, and professional achievement.

(e) The rules shall require recommendations from an elected official of the state or a political subdivision, an administrator of a law enforcement agency, or a person holding a current license issued by the commission.

(f) At the minimum the award shall consist of a document, an appropriate medal, and a ribbon suitable for wearing on a uniform.

You suggest, and we agree, that the two subsections "do not appear to be in conflict." We believe that the subsections may be harmonized so as to give effect to the entire section.

Very truly yours,



Tom G. Davis
Assistant Attorney General
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TGD/mc

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