



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 14, 2009

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

OR2009-06544

Dear Ms. Smith:

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# 343134 (DPS OR 09-0440).

The Texas Department of Public Safety (the "department") received a request for information pertaining to a complaint filed by the requestor.¹ You claim that the requested 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. This section encompasses information other statutes make confidential. Section 411.00755 of the Government Code states in pertinent part:

(b) Notwithstanding Chapter 552, the personnel records of a commissioned officer of the department may not be disclosed or otherwise made available to the public, except the department shall release:

¹We note that the department received clarification regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

(1) any letter, memorandum, or document relating to:

...

(B) misconduct by the officer, if the letter, memorandum, or document resulted in disciplinary action[.]

Id. § 411.00755(b). Section 411.00755 defines a personnel record as “any letter memorandum, or document maintained by the department that relates to a commissioned officer of the department, including. . . complaints and complaint investigations[.]” *Id.* § 411.00755(a)(1). For the purpose of section 411.00755, “disciplinary action” means discharge, suspension, or demotion. *Id.* § 411.0072(a)(1).

You state that the submitted information consists of an internal affairs investigation in which “no violations of law or [department] policy” were found and “no disciplinary action was warranted.” Based on your representations and our review of the information at issue, we conclude that the submitted information pertains to an internal investigation that did not result in disciplinary action. Therefore, the department must withhold the submitted information under section 552.101 in conjunction with section 411.00755 of the Government 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/eeg

Ref: ID# 343134

Enc. Submitted documents

c: Requestor
(w/o enclosures)