



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 8, 2009

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

OR2009-07823

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# 343895 (OR 09-0462 & 09-0463).

The Texas Department of Public Safety (the "department") received two requests for the oaths of office and personnel files of five specific department officers. 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 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 [of the Government Code], 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:

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

(A) a commendation, congratulation, or honor bestowed on the officer for an action, duty, or

activity that relates to the officer's official duties; and

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

(2) the state application for employment submitted by the officer, but not including any attachments to the application;

(3) any reference letter submitted by the officer;

(4) any letter of recommendation for the officer;

(5) any employment contract with the officer;

(6) any periodic evaluation of the officer by a supervisor;

(7) any document recording a promotion or demotion of the officer;

(8) any request for leave by the officer;

(9) any request by the officer for transfers of shift or duty assignments;

(10) any documents presented to the commission in connection with a public hearing under Section 411.007(f);

(11) the officer's:

(A) name;

(B) age;

(C) dates of employment;

(D) positions held; and

(E) gross salary; and

(12) information about the location of the officer's department duty assignments.

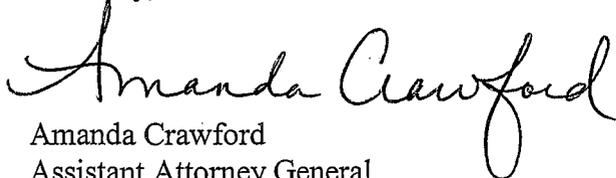
Id. § 411.00755(b). Section 411.00755 defines a personnel record as “any letter memorandum, or document maintained by the department that relates to a commissioned officer of the department[.]” *Id.* § 411.00755(a). For the purpose of section 411.00755, “disciplinary action” means discharge, suspension,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

You inform us that the officers at issue are commissioned peace officers pursuant to section 411.006(a)(5) of the Government Code. You indicate that the submitted information consists of the officers’ personnel files and pertains to allegations that did not result in discipline. You state that the department will release the records described in subsections 411.00755(b)(1) - (12) to the extent they exist. Based on your representations and our review of the submitted information, we agree that the submitted information must be withheld under section 552.101 of the Government Code 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,



Amanda Crawford
Assistant Attorney General
Open Records Division

AC/sdk

Ref: ID# 345291

Enc. Submitted documents

cc: Requestor
(w/o enclosures)