



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 24, 2010

Ms. Jennifer C. Cohen  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773

OR2010-12863

Dear Ms. Cohen:

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# 391872 (DPS ORA #10-1323).

The Texas Department of Public Safety (the "department") received a request for the following five categories of information: (1) department training materials regarding the use of radar devices in traffic law enforcement; (2) records regarding certain aspects of a named department trooper's training and health; (3) calibration and maintenance records for radar units used by the named trooper during a specified period; (4) maintenance records for the named trooper's patrol vehicle during the same period; and (5) copies of two specified oaths and one specified statement adopted by the named trooper. You state the department has released the requested records responsive to categories one, three, and four, above. You claim the information responsive to categories two and five, which you submitted for our review, is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

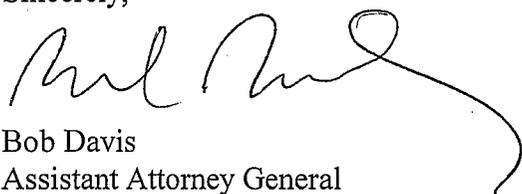
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information other statutes make confidential. Section 411.00755 of the Government Code provides that, with the exception of the information listed in subsections 411.00755(b)(1)-(12), "[t]he personnel records of a commissioned officer of the department may not be disclosed or otherwise made available to the public[.]" *Id.*

§ 411.00755(b). Section 411.00755 defines a personnel record, in part, as “any letter memorandum, or document maintained by the department that relates to a commissioned officer of the department[.]” *Id.* § 411.00755(a). Upon review, we agree the submitted records are personnel records for purposes of section 411.00755 and are not the types of records listed in subsections 411.00755(b)(1)-(12). Thus, we find these records are generally confidential under section 411.00755(b) of the Government Code. You do not indicate, and it does not appear, that any of the release provisions in section 411.00755(c) are applicable in this instance. *See id.* § 411.00755(c). Thus, we conclude the submitted information is confidential under section 411.00755(b) of the Government Code and must be withheld under section 552.101 of the Government Code.

You ask this office to issue a previous determination permitting the department to withhold the personnel records of commissioned officers under section 552.101 of the Government Code in conjunction with section 411.00755 of the Government Code. After due consideration, we have decided to grant your request. Therefore, this letter ruling shall serve as a previous determination under section 552.301(a) that, with the exception of the information listed in subsections 411.00755(b)(1)-(12), the personnel records of commissioned officers of the department are confidential under section 411.00755(b) of the Government Code. Consequently, if the release provisions in section 411.00755(c) are not applicable, the department must withhold such records under section 552.101 of the Government Code. *See id.* § 552.301(a), (f); *see also* Open Records Decision No. 673 (2001). The department may consider this ruling a previous determination for such information for as long as the elements of law, fact, and circumstances on which this ruling is based do not change so as to no longer support our conclusion. *See* Gov’t Code § 552.301(a), (f); *see also* ORD 673 at 7.

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](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, toll free, at (888) 672-6787.

Sincerely,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/tp

Ref: ID# 391872

Enc. Submitted documents

c: Requestor  
(w/o enclosures)