



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 17, 2020

Mr. Albert DiMarco
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2020-01689

Dear Mr. DiMarco:

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# 806851 (Reference No. 19-4461).

The Texas Department of Public Safety (the "department") received a request for the department's database of "use of force" reports filed under the BLUETEAM reporting system for a defined period of time. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information. We have also received and considered the requestor's comments. *See* Gov't Code § 552.304 (interested party may submit written comments regarding the availability of the requested 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." *Id.* § 552.101. Section 552.101 encompasses section 411.00755(b) of the Government Code which states, in pertinent part, "[t]he personnel records of a commissioned officer of the department may not be disclosed or otherwise made available to the public[.]" *Id.*

¹ We note the department failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will address the applicability of this exception to the submitted information, notwithstanding the department's violation of section 552.301 in requesting this decision.

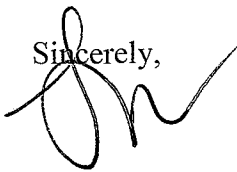
§ 411.00755(b). Thus, section 411.00755 excepts from disclosure the personnel records of commissioned department officers. Section 411.00755 defines a personnel record, in part, as “any letter memorandum, or document maintained by the department that relates to a commissioned officer of the department[.]” *Id.* § 411.00755(a).

The submitted information consists of information entered into the BLUETEAM incident reporting system, which you state replaced the HQ-12 Incident Report forms previously used by the department. We understand HQ-12 incident reports either include a detailed description and evaluation of commissioned officers’ actions in situations involving pursuits, as well as situations involving use of force, firearm discharges, and fleet occurrences, or are a summary of those actions and evaluations. We understand the documents submitted to this office as responsive to the request are the functional equivalent of the HQ-12 forms, which this office has previously found to be excepted from disclosure under section 411.00755. *See, e.g.,* Open Records Letter No. 2014-19011 (2014). You explain BLUETEAM is an intervention tool for employees and its purpose is to, among other things, improve officer performance and supervisor accountability, reduce complaints, and identify training needs. Upon review, we agree the information at issue constitutes personnel records of commissioned officers under section 411.00755(a)(1). There is no indication the information at issue contains the types of information listed in subsections 411.00755(b)(1)-(12), or that the release provisions in section 411.00755(c) are applicable. Therefore, the department must withhold the submitted information 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Jahanna Ward
Assistant Attorney General
Open Records Division

JW/eb

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Enc. Submitted documents

c: Requestor
(w/o enclosures)