



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 1, 2011

Mr. John C. West
Office of the Inspector General
Texas Department of Criminal Justice
4616 Howard Lane, Ste 250
Austin, Texas 78728

OR2011-04501

Dear Mr. West:

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# 413336.

The Office of the Inspector General of the Texas Department of Criminal Justice (the "department") received a request for records pertaining to an investigation involving a named inmate. You state you have released some information to the requestor. You also state you will redact certain addresses, telephone numbers, social security numbers, and personal family information pursuant to sections 552.117 and 552.147(b) of the Government Code and the previous determination issued to the department in Open Records Letter No. 2005-01067 (2005).¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.130, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹We note Open Records Letter No. 2005-01067 serves as a previous determination that the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former employees of the department, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, are excepted from disclosure under section 552.117(a)(3) of the Government Code. Further, section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person from public release without the necessity of requesting a decision from this office under the Act.

Section 552.134 of the Government Code relates to information about inmates of the department. This exception provides in relevant part:

- (a) Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the Texas Department of Criminal Justice is excepted from [required public disclosure] if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Gov't Code § 552.134(a). In this instance, some of the submitted information pertains to the conduct of a department employee. As such, this information is not "about an inmate" for purposes of section 552.134 and may not be withheld on that basis. However, upon review, we find the information we have marked pertains to an individual confined as an inmate in a facility operated by the department. We find this information is subject to section 552.134. We also find the exceptions in section 552.029 are not applicable in this instance. Therefore, the department must withhold the information we have marked under section 552.134(a) of the Government Code.²

Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010). Having carefully reviewed the remaining information, we have marked the information that must be withheld under section 552.102(a) of the Government Code.

In summary, the department must withhold the information we have marked under section 552.134(a) of the Government Code. The department must withhold the date of birth we have marked under section 552.102(a) of the Government Code. The remaining information must be released to the requestor.³

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.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

³We note the information being released contains the requestor's e-mail address, to which the requestor has a right of access under section 552.137(b) of the Government Code. If the department receives another request for this information from a requestor without such a right of access, it is authorized to withhold this e-mail address under section 552.137, without the necessity of requesting an attorney general decision pursuant to Open Records Decision No. 684 (2009).

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, toll free at (888) 672-6787.

Sincerely,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eeg

Ref: ID# 413336

Enc. Submitted documents

c: Requestor
(w/o enclosures)