



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2011

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

OR2011-05342

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# 414986 (ORA No. 11-0288).

The Texas Department of Public Safety (the "department") received a request for all information in the department's private security bureau's database pertaining to a named individual. You claim some of the submitted information is excepted from disclosure pursuant to sections 552.101 and 552.140 of the Government Code. We have considered the exceptions 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. Section 552.101 encompasses information made confidential by other statutes, such as section 1702.085 of the Occupations Code, which provides as follows:

Records maintained by the department under this chapter on the home address, home telephone number, driver's license number, or social security number of an applicant or a license holder, registrant, or security officer commission holder are confidential and are not subject to mandatory disclosure under Chapter 552, Government Code.

Occ. Code § 1702.085. You indicate portions of the submitted information, which you have marked, constitute the home addresses, home telephone number, driver's license number, and

social security number of an applicant that are maintained by the department under chapter 1702 of the Occupations Code. *See id.* §§ 1702.004, .005 (granting the department, through the Texas Private Security Board, power to license and regulate investigations companies and security services contractors). Thus, we find the information you have marked must be withheld under section 552.101 of the Government Code in conjunction with section 1702.085 of the Occupations Code.

You claim portions of the remaining information constitute military discharge records that are subject to section 552.140 of the Government Code. Section 552.140 provides in part:

- (a) This section applies only to a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003.

Gov't Code § 552.140(a). Section 552.140 provides a military veteran's DD-214 form or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003 is confidential for a period of seventy-five years and may only be disclosed in accordance with section 552.140 or in accordance with a court order. *See id.* § 552.140(a)-(b). From the submitted information, we are able to determine the department was first in possession of the military discharge form after September 1, 2003. Accordingly, the department must withhold this form, which we have marked, pursuant to section 552.140 of the Government Code.¹ However, the remaining information you have marked does not consist of DD-214 forms or other military discharge records that are confidential under section 552.140. Accordingly, the department may not withhold any of the remaining information under section 552.140 of the Government Code.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 1702.085 of the Occupations Code and the information we have marked under section 552.140 of the Government Code. The remaining information must be released.

You also ask this office to issue a previous determination that would permit the department to withhold the home address, home telephone number, driver's license number, and social security number of an applicant, license holder, registrant, or security officer commission holder under section 552.101 of the Government Code in conjunction with section 1702.085 of the Occupations Code without the necessity of again requesting a decision under the Act.

¹We note this office issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a DD-214 form under section 552.140 of the Government Code, without the necessity of requesting an attorney general decision.

See id. §552.301(a); Open Records Decision No. 673 (2001). We decline to issue such a decision at this time. This letter ruling is limited to the particular records 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 records 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, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tf

Ref: ID# 414986

Enc. Submitted documents

c: Requestor
(w/o enclosures)