



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 1, 2007

Mr. John C. West
Office of the Inspector General
Texas Department of Criminal Justice
P.O. Box 13084
Austin, Texas 78711

OR2007-05060

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# 277352.

The Texas Department of Criminal Justice (the "department") received a request for all reports since 2000 involving investigations into improper staff-resident relationships at six specified halfway houses. The department states that it is releasing the information in Exhibit B to the requestor with redactions pursuant to the previous determination issued by this office in Open Records Letter No. 2005-01067 (2005).¹ The department also states that it is withholding social security numbers under section 552.147 of the Government Code.² The department claims that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹Open Records Letter No. 2005-01067 (2005) 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 Texas Department of Criminal Justice, 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.

²We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

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. This section encompasses section 508.313 of the Government Code, which provides in part:

(a) All information obtained and maintained, including a victim protest letter or other correspondence, a victim impact statement, a list of inmates eligible for release on parole, and an arrest record of an inmate, is confidential and privileged if the information relates to:

(1) an inmate of the institutional division [of the department] subject to release on parole, release to mandatory supervision, or executive clemency;

(2) a releasee; or

(3) a person directly identified in any proposed plan of release for an inmate.

(f) This section does not apply to information that is subject to required public disclosure under Section 552.029 [of the Government Code].

Gov’t Code § 508.313(a), (f); *see also id.* § 508.001(9) (“releasee” means person released on parole or to mandatory supervision).

The department states that some of the submitted files relate to releasees. The requestor is not an entity authorized to obtain this information under section 508.313(c). We agree that some of the submitted files relate to releasees. The department must generally withhold the information relating to releasees under section 552.101 in conjunction with section 508.313.

Section 552.134 relates to information about inmates of the department and provides in relevant part:

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the Texas Department of Criminal Justice is excepted from the requirements of Section 552.021 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). You state that some of the submitted files contain information about inmates confined in department facilities. Thus, we agree that section 552.134 is applicable to this information. The department must generally withhold information about inmates under section 552.134.

We note that sections 508.313 and 552.134 are explicitly made subject to section 552.029 of the Government Code. *See id.* § § 508.313(f); 552.134. Section 552.029 provides:

Notwithstanding Section 508.313 or 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the [department] is subject to required disclosure under Section 552.021:

- (8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

Id. § 552.029(8). Pursuant to section 552.029(8), basic information regarding an alleged crime involving an inmate is subject to required disclosure. Basic information includes the time and place of the incident, names of inmates and department officials directly involved, a brief narrative of the incident, a brief description of any injuries sustained, and information regarding criminal charges or disciplinary actions filed as a result of the incident.

In summary, with the exception of basic information, which the department has released regarding crimes involving inmates, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 508.313 and section 552.134 of the Government Code.³

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 example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body

³As our ruling is dispositive, we do not address your remaining argument.

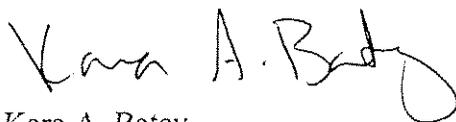
will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kara A. Batey
Assistant Attorney General
Open Records Division

KAB/mcf

Ref: ID# 277352

Enc. Submitted documents

c: Mr. Paul Weber
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