



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 6, 2010

Mr. James Mu
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2010-09886

Dear Mr. Mu:

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# 385325.

The Texas Department of Criminal Justice (the "department") received a request for a file of a named employee. You state you have released some information. You claim that the submitted information is excepted from disclosure under section 552.134 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the department's procedural obligations under the Act. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply not later than the tenth business day after the date of receiving the written request. Gov't Code § 552.301(b). The department states the requestor made a request for information on April 16, 2010. Accordingly, the ten-business-day deadline was April 30, 2010. The department did not request a ruling until May 3, 2010. Consequently, we find the department failed to comply with the procedural requirements of section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't

Code § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). The presumption that information is public under section 552.302 can generally be overcome by demonstrating that the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). Because the department's claim under section 552.134 of the Government Code can provide a compelling reason for non-disclosure, we will address its applicability to the submitted information.

Section 552.134 of the Government Code relates to information about inmates of the department. Section 552.134 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). The submitted information pertains to an investigation of an employee's work-related injury. This information contains inmate-identifying information, which we have marked, that the department must withhold under section 552.134. However, the remaining information at issue does not constitute "information about an inmate" for purposes of section 552.134, and the department may not withhold the remaining information on that basis.

We note some of the remaining information falls within the scope of section 552.117 of the Government Code.¹ Section 552.117(a)(3) excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former employees of the department or the predecessor in function of the department or any division of the department, regardless of whether the current or former employee complies with section 552.1175 of the Government Code. Gov't Code § 552.117(a)(3). Therefore, the department must withhold the information we have marked pursuant to section 552.117(a)(3) of the Government Code.

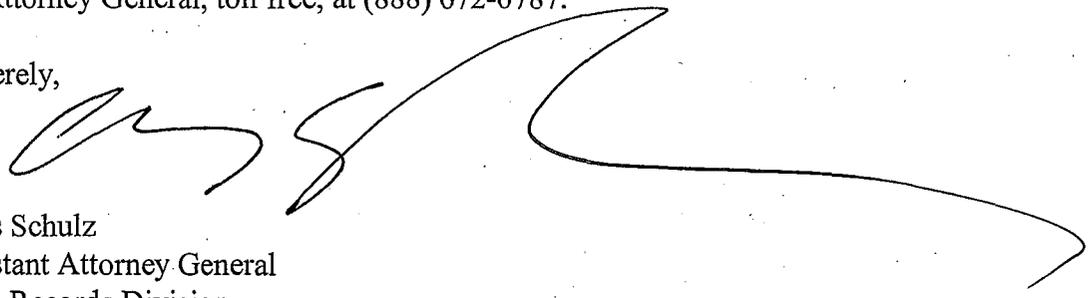
In summary, the department must withhold the information we marked under section 552.134 and 552.117. As you raise no further exceptions against disclosure, the remaining information must be released.

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 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,



Chris Schulz
Assistant Attorney General
Open Records Division

CS/tp

Ref: ID# 385325

Enc. Submitted documents

c: Requestor
(w/o enclosures)