



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 10, 2010

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

OR2010-18528

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# 402947 (OIG# OR-2010-00129).

The Texas Department of Criminal Justice's Office of the Inspector General (the "OIG") received a request for information regarding a specified investigation of a named department officer. You state you have released some of the requested information to the requestor with redactions pursuant to the previous determination issued by this office in Open Records Letter No. 2005-01067 (2005).<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.134, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note a portion of the requested information may have been the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2008-13098 (2008). In that ruling, we concluded the OIG must withhold the requested information under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code. We have no indication the law, facts, and circumstances on which Open Records Letter No. 2008-13098 was based have changed. Accordingly, with regard to the requested information that is identical to the information previously requested and ruled upon by this office in the prior ruling, we conclude the OIG

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<sup>1</sup>Open 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 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.

must continue to rely on Open Records Letter No. 2008-13098 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the requested information is not encompassed by the previous ruling, we will address the submitted arguments.

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 exception 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 Texas Department of Criminal Justice] 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.

*Id.* § 508.313(a); *see id.* § 508.001(9) ("releasee" means person released on parole or to mandatory supervision). You assert the submitted information contains releasee information. You inform us the requestor is not an entity authorized to obtain the information at issue under section 508.313(c). Based on your representations and our review of the information in question, we conclude that section 508.313 of the Government Code is generally applicable to the submitted information.<sup>2</sup>

Section 508.313 is explicitly made subject, however, to section 552.029 of the Government Code. *See id.* §§ 508.313(f), 552.134(a). Section 552.029 provides in part:

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 [of the Government Code]:

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

(1) the inmate's name, identification number, . . . department photograph[; and]

(8) basic information regarding . . . an alleged crime involving the inmate.

*Id.* § 552.029(1), (8). In this instance, the information encompassed by section 508.313 of the Government Code includes the releasee's department photograph and information regarding an alleged crime involving the releasee. Thus, the OIG must release the releasee's photograph and basic information regarding the alleged crime involving the releasee under section 552.029. Basic information includes the time and place of the incident, the 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. The OIG must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.

In summary, the OIG must continue to rely on Open Records Letter No. 2008-13098 as a previous determination and withhold or release the identical information in accordance with that ruling. To the extent the requested information is not encompassed by the previous ruling, the OIG must withhold the requested information, except for the basic information, under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code. The OIG must release the basic information.

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](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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/em

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)