



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 24, 2011

Ms. Charlotte A. Towe  
Assistant General Counsel  
TDCJ - Office of the General Counsel  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2011-12265

Dear Ms. Towe:

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# 427913.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining a specified job number. You state some information has been or will be released to the requestor. You claim the submitted information is excepted from disclosure under section 552.140 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted information includes the personal information of applicants who may be current or former employees of the department. In Open Records Letter No. 2005-01067 (2005), we issued a previous determination that authorizes the department to withhold the personal information of a current or former employee of the department under section 552.117(a)(3) of the Government Code without the necessity of again requesting an attorney general decision with regard to the applicability of this exception. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (delineating elements of second type of previous determination under section 552.301(a)). We note that a post office box number is not a "home address" for purposes of

section 552.117.<sup>1</sup> Therefore, to the extent the applicants are current or former employees of the department, the department must withhold the personal information we have marked in accordance with Open Records Letter No. 2005-01067.

You claim the remaining information constitutes 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 forms after September 1, 2003. Accordingly, the department must withhold these forms, which we have marked, pursuant to section 552.140 of the Government Code.<sup>2</sup> 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.

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

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<sup>1</sup>See Gov't Code § 552.117; Open Records Decision No. 622 at 6 (1994) (legislative history makes clear that purpose of section 552.117 is to protect public employees from being harassed *at home*) (citing House Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985)).

<sup>2</sup>We note this office issued Open Records Decision No. 684 (2009), 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.

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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/bs

Ref: ID# 427913

Enc. Submitted documents

c: Requestor  
(w/o enclosures)