



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 27, 2013

Ms. Amy Benya
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2013-04952

Dear Ms. Benya:

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# 482347.

The Texas Department of Criminal Justice (the "department") received a request for six categories of information regarding the department's chaplaincy. You state the department will release some of the requested information. You claim some of the submitted information is excepted from disclosure under section 552.102 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note 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 present and former home addresses and telephone numbers, social security numbers, and family member information of its current or former employees under section 552.117(a)(3) of the Government Code, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, without the necessity

of requesting a decision under the Act.¹ *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Therefore, to the extent the applicants are current or former employees of the department, the department must withhold the information we have marked under section 552.117(a)(3) in accordance with Open Records Letter No. 2005-01067.²

Section 552.102(a) excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). We have marked dates of birth of applicants that may be subject to section 552.102(a) of the Government Code. Therefore, to the extent the applicants are current or former employees of the department, the department must withhold the information we have marked under section 552.102(a). However, the department may not withhold this information under section 552.102(a) if the applicants concerned are not current or former employees of the department. The remaining information is not excepted under section 552.102(a) and may not be withheld on that basis.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license or driver’s license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See* Gov’t Code § 552.130(a)(1)-(2). Upon review, we find the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, to the extent the applicants are current or former employees of the department, the department must withhold the information we have marked under section 552.117(a)(3) in accordance with Open Records Letter No. 2005-01067 and the information we have marked under section 552.102(a) of the Government Code. The department must withhold the information we have marked under section 552.130 of the Government Code. The department must release the remaining information.

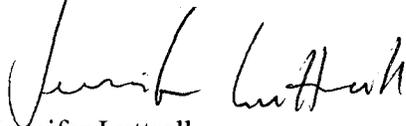
¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); *see, e.g.*, Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

²To the extent the marked social security numbers are not excepted from disclosure under section 552.117(a)(3), we note 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.

You ask this office to issue a previous determination permitting the department to withhold the birth dates of current and former department employees under section 552.102(a) of the Government Code without requesting a ruling from this office. We decline to issue such a previous determination at this time. Accordingly, 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 Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 482347

Enc. Submitted documents

c: Requestor
(w/o enclosures)