



March 8, 2002

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

OR2002-1120

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 159593.

The Texas Department of Criminal Justice (the "department") received a request for case summaries and other "documentation" relating to denials of parole. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code. We have considered the exceptions you raise and have reviewed the information you submitted. We also received correspondence from the requestor.¹

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information that another statute makes confidential. You raise section 552.101 in conjunction with section 508.313 of the Government Code. Section 508.313 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:

¹See Gov't Code § 552.304 (providing that any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

- (1) an inmate of the institutional division [of the 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.

Gov't Code § 508.313(a). You inform this office that the submitted documents are held by the Parole Division of the department as part of the parole file of an inmate of the Institutional Division. You state that at the time of this request for information, the inmate in question was subject to release on parole, release to mandatory supervision, or executive clemency. You assert that the submitted documents are thus information obtained or maintained by the department that relates to an inmate subject to release on parole, release to mandatory supervision, or executive clemency and are therefore confidential under section 508.313 of the Government Code. Based on your representations, we conclude that the requested information is confidential under section 508.313. Therefore, this information is excepted from disclosure under section 552.101 of the Government Code as information made confidential by law. As we are able to make this determination, we need not address your arguments under section 552.134.

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

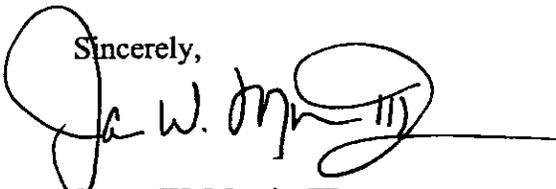
will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure 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 Department of Public 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,

A handwritten signature in black ink, appearing to read "James W. Morris, III", with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 159593

Enc: Submitted documents

c: Ms. Kathy McLean
4912 5th Street West
Lehigh Acres, Florida 33971
(w/o enclosures)