



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 20, 2006

Ms. Carla M. Cordova
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2006-12419

Dear Ms. Cordova:

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#262642.

The Texas Department of Criminal Justice (the "department") received a request for all records pertaining to the requestor's client, a former department inmate.¹ You state that the department will release the inmate's fingerprint to the requestor. However, you claim that the submitted information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹We note that the requestor has withdrawn his request for any parole records containing victim information, the identity of the inmate's residential provider and sponsor, as well as the pre-sentence investigation report he originally sought. Accordingly, any of this information within the submitted documents is not responsive to the present request. We will not address your arguments regarding this non responsive information, and it need not be released in response to this request.

²We note that in your letter dated August 23, 2006 you have withdrawn your assertions under sections 552.108, 552.111, and 552.117 of the Government Code.

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 section encompasses information protected by other statutes. Section 508.313 of the Government Code provides in pertinent part the following:

(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 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.

(b) Statistical and general information relating to the parole and mandatory supervision system, including the names of releasees and data recorded relating to parole and mandatory supervision services, is not confidential or privileged and must be made available for public inspection at any reasonable time.

(f) This section does not apply to information that is subject to required public disclosure under Section 552.029 [of the Government Code].

Gov’t Code § 508.313(a), (b), (f). A releasee is a person released on parole or to mandatory supervision. Gov’t Code § 508.001(9). You state that the information you have marked under section 508.313 of the Government Code pertains to a former inmate and that these records are maintained by the department’s Parole Division. After reviewing your arguments and the submitted information, we agree that this information is confidential pursuant to section 508.313 of the Government Code. The requestor is not an entity authorized to obtain the submitted information under section 508.313(c) of the Government Code. This information is also not made public under section 552.029 of the Government Code. *See id.* § 508.313(f). We therefore conclude that the department must withhold the information you have marked under section 552.101 in conjunction with section 508.313 of the Government Code.

Section 552.134 of the Government Code relates to information about inmates of the department and 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). Upon review, we conclude that the remaining submitted information consists of information about a former inmate who was confined in a facility operated by the department. Furthermore, we conclude that none of this information is subject to release under section 552.029 of the Government Code. Therefore, the department must withhold the remaining submitted information pursuant to section 552.134 of the Government Code.

In summary, the department must withhold the information you have marked pursuant to section 552.101 in conjunction with section 508.313 of the Government Code. The remaining information must be withheld pursuant to section 552.134 of the Government Code.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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. 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,



Holly R. Davis
Assistant Attorney General
Open Records Division

HRD/eb

Ref: ID# 262642

Enc. Submitted documents

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