



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 15, 2007

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

OR2007-01952

Dear Ms. Fleming:

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# 271897.

The Texas Department of Criminal Justice (the "department") received a request for a specified parole file. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

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(a)(2) of the Government Code makes confidential "[a]ll information obtained or maintained" by the department that relates to a "releasee," meaning a person

¹We note that in your letter dated December 20, 2006, you have withdrawn your assertions under sections 552.107, 552.108, and 552.111 of the Government Code. We additionally note that although you initially raise sections 552.103 and 552.122, you have not submitted arguments explaining how these exceptions apply to the submitted information. Thus, the department has waived its claims under sections 552.103 and 552.122. See Gov't Code § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested); see also Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general).

released on parole or to mandatory supervision. *See id.* § 508.001(a)(9). You state that the submitted records pertain to a releasee. Based on your representations and our review, we conclude that this information is made confidential by section 508.313(a)(2) of the Government Code and that none of the release provisions of that statute apply in this instance. *See id.* §§ 508.313(c)-(f). Accordingly, the department must withhold the requested parole file pursuant to section 552.101 of the Government Code.²

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).

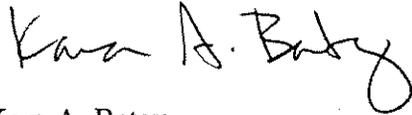
Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

²As our ruling is dispositive, we need not address your argument under section 552.134 of the Government Code.

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,

A handwritten signature in black ink that reads "Kara A. Batey". The signature is written in a cursive style with a large, looped "y" at the end.

Kara A. Batey
Assistant Attorney General
Open Records Division

KAB/krl

Ref: ID# 271897

Enc. Submitted documents

c: Ms. Sandy Hartman
Hays, McConn, Rice & Pickering
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Houston, Texas 77002
(w/o enclosures)