



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 4, 2009

Mr. James Mu
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2009-02818

Dear Mr Mu:

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# 336353.

The Texas Department of Criminal Justice (the "department") received a request for all personnel evaluations completed by a named employee during a specified time period and all internal reviews conducted by the same employee during a specified time period. You state the department has released the non-confidential responsive information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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 section 508.313 of the Government Code, which provides in part:

- (a) All information obtained and maintained [by the [department]], 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 [of the [department]] 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.

...

(e) This section does not apply to information relating to a sex offender that is authorized for release under Chapter 62, Code of Criminal Procedure.

Gov't Code § 508.313(a), (e); *see also id.* § 508.001(9) ("release" means a person released on parole or to mandatory supervision). You state the submitted documents originate from the Parole Division files of releasees and are maintained by the department's Parole Division. You inform us the requestor is not an entity that is authorized to obtain this particular information under section 508.313(c). Based on your representations and our review, we find the submitted information is generally subject to section 508.313 of the Government Code.

We note, however, a portion of the submitted information appears to relate to a sex offender who was subject to registration under Chapter 62 of the Code of Criminal Procedure. Article 62.051 of the Code of Criminal Procedure requires a sex offender registrant to provide the following information for the Department of Public Safety ("DPS") sex offender registration database: the person's full name; each alias; date of birth; sex; race; height; weight; eye color; hair color; social security number; driver's license number; shoe size; home address; a photograph of the person; a complete set of the person's fingerprints; the type of offense the person was convicted of; the age of the victim; the date of the conviction; the punishment received; an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision; an indication of each license, as defined by article 62.005(g), that is held or sought by the person; an indication as to whether the person is or will be employed, carrying on a vocation, or a student at particular public or private institution of higher education in this state or another state, and the name and address of that institution; and any other information required by DPS. *See* Crim. Proc. Code art. 62.051(b), (c). This information is generally public information with the exception of the person's social security number, driver's license number, telephone number, all information required by DPS outside of the enumerated categories of information, and any information that would identify the victim of the offense for which the person is subject to registration. *See id.* art. 62.005(b). A penal institution may release information regarding a person required to register only if the information is public information under chapter 62. *See id.* art. 62.009(a). Accordingly, if the information we

have marked relates to a sex offender required to register under chapter 62 of the Code of Criminal Procedure, then the department must release the information subject to article 62.005 of the Code of Criminal Procedure and withhold the remaining information under section 552.101 in conjunction with section 508.313 of the Government Code. If the information we have marked does not relate to a sex offender required to register under chapter 62, the department must withhold all of the submitted information under section 552.101 in conjunction with section 508.313.¹

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, 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 at (512) 475-2497.

Sincerely,



Olivia A. Maceo
Assistant Attorney General
Open Records Division

OM/eeg

Ref: ID# 336535

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure.