



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 30, 2009

Ms. Bettie L. Wells
General Counsel
Texas Board of Pardons and Paroles
P.O. Box 13401
Austin, Texas 78711

OR2009-09044

Dear Ms. Wells:

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# 347526.

The Texas Board of Pardons and Paroles (the "board") received a request for the filing date and name of the attorney or other individual who filed clemency petitions on behalf of fifty-six named former death row inmates. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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. Section 552.101 encompasses section 508.313 of the Government Code, which provides in part:

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(a) All information obtained and maintained [by the board], 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 Texas 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.

(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.

(c) [The board] may provide information that is confidential and privileged under Subsection (a) to:

(1) the governor;

(2) a member of the board or a parole commissioner;

(3) the Criminal Justice Policy Council in performing duties of the council under Section 413.017 [of the Government Code]; or

(4) an eligible entity requesting information for a law enforcement, prosecutorial, correctional, clemency, or treatment purpose.

Id. § 508.313(a). The board states the submitted information consists of information it maintains that relates to inmates subject to executive clemency. After reviewing the board's arguments and the submitted information, we agree this information is subject to section 508.313. You inform us that the requestor is not an entity authorized to obtain the submitted information under section 508.313(c). Further, we note this information is not made public under section 552.029 of the Government Code. *See id.* § 508.313(f). We therefore conclude that the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.

You also ask this office to issue a previous determination permitting the board to withhold the names and contact information of attorneys submitting clemency applications on behalf of offenders who are inmates or releasees to parole or mandatory supervision, as well as the dates the applications were received under section 508.313 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 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,



Greg Henderson
Assistant Attorney General
Open Records Division

GH/rl

Ref: ID#347526

Enc. Submitted documents

c: Requestor
(w/o enclosures)