



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 15, 2011

Ms. Charlotte A. Towe
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2011-02290

Dear Ms. Towe:

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# 409191.

The Texas Department of Criminal Justice (the "department") received a request for the incarceration records of a named deceased individual. You state that some of the requested information has been or will be released to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.134 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. Section 552.101 encompasses section 508.313 of the Government Code, which 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:

- (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.

Gov't Code § 508.313(a); *see id.* § 508.001(9) ("release" means person released on parole or to mandatory supervision). You state the information you have marked as parole records is maintained by the department's parole division and is related to a releasee. You do not indicate that the requestor is authorized to obtain the information in question under section 508.313(c).¹ *See id.* § 508.313(c)–(d). We also find the submitted information is not of the kind made public under section 552.029 of the Government Code. *See id.* §§ 508.313(f), 552.029(8). We therefore conclude that the department must withhold the submitted parole records under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.

Section 552.134 encompasses information relating to inmates of the department and provides:

[e]xcept as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the [department] is excepted from [required public disclosure] 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). We note that although the inmate to whom the remaining information pertains is deceased, section 552.134 is applicable to information that relates to the decedent as an inmate. We also find the remaining information is not of the kind made public by section 552.029. Accordingly, the department must withhold the remaining information under section 552.134 of the Government Code.²

¹Section 508.313(c) provides for the release of information encompassed by section 508.313(a) to the governor, a member of the board of pardons and paroles or a parole commissioner, the criminal justice policy council, or an eligible entity requesting information for a law enforcement, prosecutorial, correctional, clemency, or treatment purpose. Section 508.313(d) provides that "eligible entity" means a government agency, an organization with which the Department of Criminal Justice contracts or an organization to which the department provides a grant, or an organization to which inmates are referred for services by the department.

²As our ruling is dispositive, we do not address your remaining arguments against disclosure.

In summary, the department must withhold the parole records you have marked under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code. The department must withhold the remaining information under section 552.134 of the Government Code.

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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Neal Falgoust". The signature is written in a cursive style with a period at the end.

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

Ref: ID# 409191

Enc. Submitted documents

c: Requestor
(w/o enclosures)