



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 5, 2015

Ms. Jordan Hale
Public Information Coordinator
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2015-23308

Dear Ms. Hale:

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# 586121 (OOG ID# 15-348).

The Office of the Governor (the "governor's office") received a request for information pertaining to a named individual. You state you will release a portion of the information. You state you will redact e-mail addresses under section 552.137 of the Government Code in accordance with Open Records Decision No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state you notified the Texas Board of Pardons and Paroles (the "board") of the request and its right to submit arguments to this office. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the board. We have considered the claimed exceptions and reviewed the submitted representative sample of information.²

¹Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684.

²We assume 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 those records contain substantially different types of information than that submitted to this office.

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 information made confidential by other statutes. You and the board both raise section 552.101 in conjunction with section 508.313 of the Government Code for the submitted information. Section 508.313 provides in relevant part:

(a) All information obtained and maintained [by the Texas Department of Criminal Justice], 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.

...

(c) The [Texas Department of Criminal Justice], on request or in the normal course of official business, shall 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

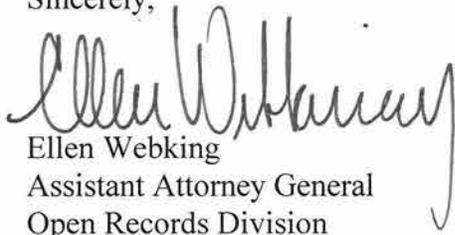
(4) an eligible entity requesting information for a law enforcement, prosecutorial, correctional, clemency, or treatment purpose.

Id. § 508.313(a), (c). Section 508.313 requires the Texas Department of Criminal Justice to transfer information to the board and the governor for consideration in clemency matters; such a transfer does not affect the confidentiality of the information. *See id.* § 508.313(c). You state the submitted information was transferred by the board to the governor’s office for consideration in a clemency matter. Accordingly, we find the submitted information is confidential under section 508.313 of the Government Code and must be withheld under section 552.101 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/akg

Ref: ID# 586121

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Bettie Wells
General Counsel
Texas Board of Pardons and Paroles
P.O. Box 13401
Austin, Texas 78711
(w/o enclosures)