



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

June 30, 2004

Mr. Lance Beversdorff  
Staff Attorney  
Texas Youth Commission  
P.O. Box 4260  
Austin, Texas 78765

OR2004-5336

Dear Mr. Beversdorff:

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# 204234.

The Texas Youth Commission (the "commission") received a request for records related to the requestor's grievance. You state that some responsive information will be provided to the requestor. You state that the commission has not compiled the requested "report of all confirmed AMIs since 01/01/03 to include disciplinary action served," but that you will make available copies of existing reports containing summaries of AMIs.<sup>1</sup> You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

---

<sup>1</sup>We note that the Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request for information. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983). A governmental body must make a good faith effort to relate a request for information to any responsive information that is within its custody or control. See Open Records Decision No. 561 at 8-9 (1990).

<sup>2</sup>We 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.

Initially, we address your inquiry as to whether the instant request is a proper request for information under the Act. A governmental body must make a good faith effort to relate a request to information which it holds. *See* Open Records Decision No. 561 at 8 (1990). Generally, a request for information need not name the Act nor be addressed to a governmental body's officer for public information in order to be a valid request for information under the Act. *See* Open Records Decision Nos. 497 at 3 (1988), 44 at 2 (1974). Furthermore, a hyper-technical reading of the Act does not effectuate the purpose of the Act. *See id.* A written communication that can reasonably be judged to be a request for public information is a request for information for purposes of the Act. *See id.* In this instance, we find that the written communication provided to the commission by the requestor can reasonably be judged as a request for public information for purposes of the Act. Accordingly, we conclude that the commission may not withhold any portion of the submitted information on the basis that the communication provided to the commission was not made in accordance with the Act.

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information protected by other statutes. As amended by the Seventy-eighth Legislature, section 61.073 of the Human Resources Code provides as follows:

The commission shall keep written records of all examinations and conclusions based on them and of all orders concerning the disposition or treatment of each child subject to its control. Except as provided by Section 61.093(c), these records and all other information concerning a child, including personally identifiable information, are not public and are available only according to the provisions of Section 58.005, Family Code, Section 61.0731, Human Resources Code, and Chapter 61, Code of Criminal Procedure.

---

Hum. Res. Code § 61.073.<sup>3</sup> You indicate that some of the submitted information consists of records relating to children in the custody of the commission.<sup>4</sup> Upon review, we determine that section 61.073 is applicable to this information. We therefore conclude that the commission must withhold the information that we have marked pursuant to section 552.101 of the Government Code in conjunction with section 61.073 of the Human Resources Code.<sup>5</sup>

Finally, you contend that portions of the submitted documents are excepted from disclosure under section 552.117(a)(1) of the Government Code. Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who timely elect to keep this information confidential pursuant to section 552.024. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). For those employees who timely elected to keep their personal information confidential, the commission must withhold under section 552.117(a)(1) the employees' home addresses and telephone numbers, social security numbers, and any information that reveals whether these employees have family members. The commission may not withhold this information under section 552.117 for those employees who did not make a timely election to keep the information confidential.

In summary, the commission must withhold the information that we have marked pursuant to section 552.101 of the Government Code in conjunction with section 61.073 of the Human Resources Code. For those employees who timely elected to keep their personal information confidential, the commission must withhold under section 552.117(a)(1) the employees' home addresses and telephone numbers, social security numbers, and any information that

---

<sup>3</sup>Section 61.093(c) of the Human Resources Code authorizes the disclosure of information relating to a child who has escaped from custody. Section 61.0731 of the Human Resources Code authorizes the disclosure of information concerning a child to the child and the child's parent or guardian, if disclosure would not materially harm the treatment and rehabilitation of the child and would not substantially decrease the likelihood of the commission receiving information from the same or similar sources in the future. Section 58.005(a) of the Family Code provides that information obtained for the purpose of diagnosis, examination, evaluation, or treatment of a child by an agency providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to certain specified persons or under certain specified circumstances. Chapter 61 of the Code of Criminal Procedure governs information pertaining to criminal combinations and criminal street gangs. The commission does not indicate that it is authorized to release any of the submitted information under sections 61.0731 or 61.093 of the Human Resources Code, section 58.005(a) of the Family Code, or chapter 61 of the Code of Criminal Procedure.

<sup>4</sup>For the purposes of chapter 61 of the Human Resources Code, a "child" is a person less than 21 years old.

<sup>5</sup>As our ruling is dispositive, we do not address your other claims for this information.

reveals whether these employees have family members. The remainder of the submitted information must be released to the requestor.

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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission 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. We note that a third party may challenge this

ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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, appearing to read "Cindy Nettles". The signature is written in a cursive style with a large initial "C".

Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jh

Ref: ID# 204234  
Enc. Submitted documents

c: Mr. Gabriel Bernal  
9365 Green Acres  
Vernon, Texas 76384  
(w/o enclosures)