



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

August 23, 2005

Mr. Michael P. Mondville
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2005-07615

Dear Mr. Mondville:

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# 230772.

The Texas Department of Criminal Justice (the "department") received a request for information relating to the department's Offender Information Management System (the "OIMS"), including (1) the title and description of all tables within the OIMS, (2) the number of records within each table in the OIMS, (3) the name and description of each field within each table in the OIMS, (4) the name and address of the vendor of the software; and (5) any training materials for the OIMS. You inform us that the department has released responsive information. You assert that the materials that you have submitted are not subject to disclosure under the Act. In the alternative, you claim that these materials are excepted from disclosure under sections 552.101, 552.108, 552.110, 552.134, and 552.139 of the Government Code. You also believe that the submitted materials implicate the proprietary interests of Sapient Corporation ("Sapient"). You notified Sapient of this request and of its

right to submit arguments to this office as to why the submitted materials should not be released.¹ We have considered your arguments and have reviewed the submitted materials.

You initially contend that the submitted materials do not consist of public information that is subject to disclosure under the Act. The Act applies only to "public information." See Gov't Code § 552.021. Section 552.002 of the Act defines public information as

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Id. § 552.002. In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property, is not the kind of information that is made public under section 552.021 of the Act. See Open Records Decision No. 581 at 6 (1990) (construing predecessor statute). In this instance, you state that the sole purpose of the submitted materials is the maintenance and manipulation of data concerning inmates in correctional facilities operated by the department. You describe the submitted materials as being tools for the manipulation of data and descriptions of those tools and how to use them. Having considered your arguments and reviewed the materials at issue, we find that, like the computer-related information at issue in Open Records Decision No. 581, the submitted materials function solely as tools to maintain, manipulate, or protect public property and have no other significance. *Id.* As such, they are not public information, as defined by section 552.002 of the Government Code, and are therefore not subject to the Act. Thus, the department need not release any of the submitted materials to the requestor. As we are able to make this determination, we need not address your other arguments against disclosure.

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

¹See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). As of the date of this decision, this office has received no correspondence from Sapient.

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).

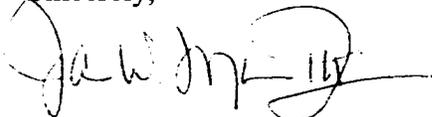
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 230772

Enc: Submitted documents

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