ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 23, 2006

Ms. Sylvia Hardman
General Counsel
Texas Department of Assistive and Rehabilitative Services
4800 North Lamar Blvd., Suite 300
Austin, Texas 78756

OR2006-09692

Dear Ms. Hardman:

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# 257559.

The Texas Department of Assistive and Rehabilitative Services (the "department") received a request for a copy of the requestor's entire file and the notes from a specified meeting. You state that the department has released most of the requested information. You claim that the portions of the remaining requested information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 information made confidential by other statutes. Section 111.018(b) of the Human Resources Code provides that:

> (b) In carrying out his or her duties under this chapter, the commissioner [of the department] shall, with the approval of the board, implement policies addressing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services,

> procedures for hearings, and other regulations subject to this section as necessary to carry out the purposes of this chapter.[1]

Hum. Res. Code § 111.018(b). Under the authority of section 111.018(b), the department has promulgated rules making certain information confidential. Specifically, section 101.4015 of title 40 of the Administrative Code provides in relevant part:

> (a) Client records.
>
> > (1) All personal information made available to [the department] employees in the course of the administration of rehabilitation services programs, including lists of names, addresses, and records of agency evaluation is confidential.
> >
> > . . .
> >
> > (3) Information is not to be disclosed directly or indirectly, other than in the administration of the rehabilitation programs, unless the consent of the client has been obtained in writing, in compliance with a court order, or in accordance with a federal or state law or regulation. Information containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibilities for administration of the program.

40 T.A.C. § 101.4015. The highlighted portions of the submitted records consist of personal information of clients that was made available to the department in the course of the administration of rehabilitative services. You state that none the release provisions in this section apply. Based on your arguments and our review of the submitted information, we find that the client names and social security numbers you have marked must be withheld pursuant to section 552.101 of the Government Code in conjunction with section 101.4015(a)(1) of Title 40 of the Administrative Code.

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

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[1]The 78th Legislature transferred all powers, duties, functions, programs, and activities of the former Texas Rehabilitation Commission to the department effective March 1, 2004. *See* Act of June 1, 2003, 78th Leg., R.S., ch. 198, §§ 1.01, 1.21, 1.26, 2003 Tex. Gen. Laws 611, 612, 641.

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, 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); *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 Office of the Attorney General 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. 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,

Candice M. De La Garza
Assistant Attorney General
Open Records Division

CMD/krl

Ref: ID# 257559

Enc. Submitted documents

c: Ms. Patricia A. Price
251 Wildflower Trail
New Braunfels, Texas 78130
(w/o enclosures)