



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5 2007

Mr. James M. Frazier III
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2007-11543

Dear Mr. Frazier:

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# 288221.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to parolees residing in Bexar County. You indicate that the department will release some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹ We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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. This exception encompasses information that other statutes make confidential, such as section 508.313 of the Government Code. Section 508.313 provides in part:

¹We 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.

(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.

Id. § 508.313(a); *see also id.* § 508.001(9) (“releasee” means person released on parole or to mandatory supervision). You state that the submitted information relates to releasees. You state that the requestor does not represent an eligible entity that is authorized to obtain the information in question under section 508.313(c). *See id.* § 508.313(c)-(d).² You also state that none of the information is subject to chapter 62 of the Code of Criminal Procedure or section 552.029 of the Government Code. *See id.* § 508.313(e)-(f).³ Based on your representations, we conclude that the department must withhold the submitted information under section 508.313 of the Government 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 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

²Section 508.313(c) provides for the release of information that is confidential under 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.

³Section 508.313(e) provides that section 508.313 does not apply to information relating to a sex offender that is authorized for release under chapter 62 of the Code of Criminal Procedure. Section 508.313(f) provides that section 508.313 does not apply to information that is subject to required public disclosure under section 552.029 of the Government Code.

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).

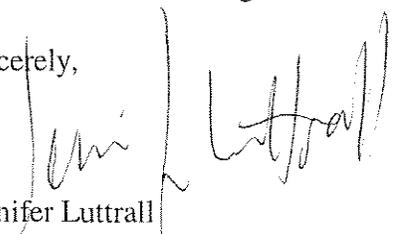
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/eeg

Ref: ID# 288221

Enc. Submitted documents

c: Mr. Brian Collister
Investigative Reporter
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(w/o enclosures)