



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

~~June 12, 2008~~

Mr. Edwin J. Cook  
Regional Services Attorney  
Texas Health & Human Services Commission  
P.O. Box 960  
Edinburg, Texas 78540-0960

OR2008-08082

Dear Mr. Cook:

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# 314948.

The Texas Health and Human Services Commission (the "commission") received a request for information pertaining to a specified investigation of the requestor's clients for food stamp and Medicaid fraud. You state that some of the requested information will be released, but claim that some of the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions 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." This section encompasses information made confidential by other statutes. Section 531.1021(g) of the Government Code provides as follows:

All information and materials subpoenaed or compiled by the [Office of the Inspector General of the Health and Human Services Commission] in connection with an investigation are confidential and not subject to disclosure under [the Act], and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the office [of the inspector general] or its employees or agents involved in the investigation conducted by the office, except that this

information may be disclosed to the office of the attorney general, the state auditor's office, and law enforcement agencies.

*Id.* § 531.1021(g). You state that the commission's Office of the Inspector General compiled the information at issue in connection with a fraud-and-abuse investigation. Based upon this representation, we agree that the commission must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 531.1021(g) of the Government Code.<sup>1</sup> The commission must release the remaining information.<sup>2</sup>

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

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<sup>1</sup>As our ruling is dispositive, we do not address your other argument to withhold this information.

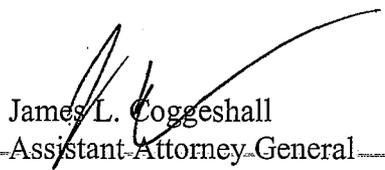
<sup>2</sup>We note that the requestor has a right of access to information in the submitted documents that otherwise would be exempted from release under the Act. *See* Gov't Code § 552.023(a) ("a person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the commission must again seek a decision from this office if it receives a request for this information from a different requestor.

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge 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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/jh

Ref: ID# 314948

Enc. Submitted documents

c: Ms. Melisa Canales  
324 West University Drive  
Edinburg, Texas 78539  
(w/o enclosures)