



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 7, 2010

Mr. Erik Brown
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2010-06610

Dear Mr. Brown:

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# 378593.

The Texas Department of Criminal Justice (the "department") received a request for all parole records pertaining to a named former inmate. You state you will make some information available to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.134 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." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 508.313 of the Government Code, which provides in part:

- (a) All information obtained and maintained [by the department], 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.

...

(c) The department, on request or in the normal course of official business, shall provide information that is confidential and privileged under Subsection (a) to:

(1) the governor;

(2) a member of the board or a parole commissioner;

(3) the Criminal Justice Policy Council in performing duties of the council under Section 413.017 [of the Government Code]; or

(4) an eligible entity requesting information for a law enforcement, prosecutorial, correctional, clemency, or treatment purpose.

...

(e) This section does not apply to information relating to a sex offender that is authorized for release under Chapter 62, Code of Criminal Procedure.

(f) This section does not apply to information that is subject to required public disclosure under Section 552.029.

Id. § 508.313(a), (c), (e), (f); *see id.* § 508.001(9) (“releasee” means a person released on parole or to mandatory supervision). You state that the submitted information is contained in the parole division files of the named inmate. You explain that the submitted information was generated while the named inmate was subject to release on parole. *Id.* § 508.313(a)(1). You do not indicate that any of the information in question is subject to release under section 508.313(c). *See id.* § 508.313(c). Likewise, you do not indicate that any of the submitted information is subject to chapter 62 of the Code of Criminal Procedure. *See id.* § 508.313(e). In addition you state that the submitted information is not made public under section 552.029 of the Government Code. *See id.* § 508.313(f). Based on your

representations and our review of the information at issue, we conclude that the department must withhold the submitted records under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Tamara Wilcox". The signature is fluid and cursive, with the first name "Tamara" written in a larger, more prominent script than the last name "Wilcox".

Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 378593

Enc. Submitted documents

c: Requestor
(w/o enclosures)