



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 21, 2010

Mr. James Mu  
Assistant General Counsel  
Texas Department of Criminal Justice  
Office of the General Counsel  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2010-10847

Dear Mr. Mu:

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# 387404.

The Texas Department of Criminal Justice (the "department") received a request for a specified letter written by the requestor, any information on who issued a specified detainer, and the requestor's prison records from a specified time period. You state that the department has made or will make some of the requested information available to the requestor. You claim that 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.

Initially, we note that the submitted documents contain fingerprints of the requestor. The public availability of fingerprints is governed by chapter 560 of the Government Code. *See* Gov't Code §§ 560.001(1) ("biometric identifier" means retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry), 560.003 (biometric identifier in possession of governmental body is exempt from disclosure under Act). Section 560.002 provides that "[a] governmental body that possesses a biometric identifier of an individual . . . may not

sell, lease, or otherwise disclose the biometric identifier to another person unless . . . the individual consents to the disclosure[.]” *Id.* § 560.002(1)(A). Thus, the requestor has a right of access to his own fingerprint information under section 560.002(1)(A). *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Therefore, the department must release the submitted fingerprints, which we have marked, under section 560.002 of the Government Code.

Section 552.134 of the Government Code relates to information about inmates of the department. This exception provides in relevant part:

- (a) Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the Texas Department of Criminal Justice is excepted from [required public disclosure] if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Gov’t Code § 552.134(a). You represent that the remaining information consists of information about an inmate confined in a facility operated by the department. Upon review, we agree that the remaining information is subject to section 552.134. We find that the exceptions in section 552.029 are not applicable in this instance. Therefore, the department must withhold the remaining information under section 552.134 of the Government Code.<sup>1</sup>

In summary, the department must release the submitted fingerprints, which we have marked, under section 560.002 of the Government Code.<sup>2</sup> The department must withhold the remaining information under section 552.134(a) of the Government Code.

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](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free,

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument for the submitted information.

<sup>2</sup>We note the requestor has a special right of access to the information being released in this instance. *See* Gov’t Code § 560.002. Accordingly, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.

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 that reads "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/jb

Ref: ID# 387404

Enc. Submitted documents

c: Requestor  
(w/o enclosures)