



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2010

Ms. Bettie L. Wells
General Counsel
Texas Board of Pardons and Paroles
P.O. Box 13401
Austin, Texas 78711

OR2010-16375

Dear Ms. Wells:

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# 398343.

The Texas Board of Pardons and Paroles (the "board") received a request for information pertaining to a named individual and his commutation. 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.

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 protected by other statutes, such as section 508.313 of the Government Code, which provides in part:

(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 Texas Department of Criminal Justice] 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.

(b) Statistical and general information relating to the parole and mandatory supervision system, including the names of releasees and data recorded relating to parole and mandatory supervision services, is not confidential or privileged and must be made available for public inspection at any reasonable time.

(c) The [Texas Department of Criminal Justice], 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.

Id. § 508.313(a)-(c). You state the submitted information consists of information the board maintains that relates to an inmate subject to executive clemency. After reviewing your arguments and the submitted information, we agree this information is subject to section 508.313. The submitted information does not consist of statistical and general information relating to the parole and mandatory supervision system. *See id.* § 508.313(b). You inform us the requestor is not an entity authorized to obtain the requested information under section 508.313(c). Further, we note this information is not subject to chapter 62 of the Code of Criminal Procedure or section 552.029 of the Government Code. *See id.* § 508.313(e)-(f).¹ We, therefore, conclude the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.

You also ask this office to issue a previous determination permitting the board to withhold 1) staff reports pertaining to offenders who are subject to executive clemency and 2) electronic records maintained in the clemency database and pertaining to offenders who are subject to executive clemency under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code, without the necessity of requesting a ruling from our office under the Act. After due consideration, we have decided to grant your request. Therefore, this letter ruling shall serve as a previous determination under section 552.301(a) that the two categories of information listed above are excepted

¹Section 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.

from disclosure under section 552.101 of the Government Code in conjunction with section 508.313(a) of the Government Code. Please note, however, that this letter ruling does not affect any right of access to the above categories of information by the governor, a member of the board or a parole commissioner, the Criminal Justice Policy Council, or any "eligible entity," as defined in section 508.313(d). *See id.* § 508.313(c). Nor does this letter ruling apply to statistical and general information relating to the parole and mandatory supervision system, to sex offender information that is subject to required public disclosure under chapter 62 of the Code of Criminal Procedure, or to general inmate information subject to required public disclosure under section 552.029 of the Government Code. *See id.* § 508.313(b), (e), (f). The board may consider this ruling a previous determination for such information for as long as the elements of law, fact, and circumstances on which this ruling is based do not change so as to no longer support our conclusion. *See Gov't Code* § 552.301(a), (f); *see also* Open Records Decision No. 673 at 7 (2001).

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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/dls

Ref: ID# 398343

Enc. Submitted documents

c: Requestor
(w/o enclosures)