ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 26, 2011

Ms. Charlotte A. Towe
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2011-12378

Dear Ms. Towe:

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# 428105.

The Texas Department of Criminal Justice (the "department") received a request for all records in the requestor's file. You state some information has been or will be made 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.

Initially, we note the information at issue contains the requestor's fingerprint information. Access to fingerprint information is governed by sections 560.001, 560.002, and 560.003 of the Government Code. Section 560.001 provides in part that "[i]n this chapter . . . '[b]iometric identifier' means a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry." Gov't Code § 560.001(1). Section 560.003 provides that "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." *Id.* § 560.003. Section 560.002 provides, however, 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, section 560.002(1)(A) of the Government Code gives an individual or his authorized representative a right of access to his own fingerprint

information. Although you assert this information is excepted from disclosure under section 552.134 of the Government Code, statutes governing the release of specific information prevail over the general exceptions to disclosure found in the Act. *See* Attorney General Opinion DM-146 at 3 (1992); *see also* Open Records Decision Nos. 613 at 4 (1993) (exceptions to Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Accordingly, the department must release the fingerprint information we have marked to this requestor under section 560.002 of the Government Code.

Section 552.134 of the Government Code encompasses information relating to inmates and former inmates of the department and provides:

> (a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the [department] 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). Section 552.134 is explicitly made subject to section 552.029 of the Government Code, which provides:

> Notwithstanding Section . . . 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the [department] is subject to required disclosure under Section 552.021:
>
> . . .
>
> > (8) basic information regarding . . . an incident involving the use of force, or an alleged crime involving the inmate.

Id. § 552.029(8). Upon review, we agree all of the remaining submitted information consists of records pertaining to an individual confined as an inmate in a facility operated by the department and is, therefore, subject to section 552.134. However, we note the remaining information includes offense reports, which note alleged crimes involving the inmate. Thus, the department must release basic information about these incidents. *See id.* Basic information under section 552.029(8) includes the time and place of the incident, the names of inmates and of department employees who were involved, a brief narrative of the incident, a brief description of any injuries sustained by anyone involved, and information regarding any criminal charges or disciplinary actions that were filed as a result of the incident. Therefore, with the exception of basic information about the incidents of alleged crime,

which must be released under section 552.029(8) of the Government Code, the department must withhold the remaining information under section 552.134 of the Government Code.[1]

In summary, the department must release the submitted fingerprints, which we have marked, under section 560.002 of the Government Code. The department must withhold the remaining information, with the exception of basic 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, 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,

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/sdk

Ref: ID# 428105

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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[1]As our ruling is dispositive, we need not address your remaining arguments against disclosure.