



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 27, 2011

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

OR2011-15788

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# 434429.

The Texas Department of Criminal Justice (the "department") received a request for records pertaining to a named inmate. You state some information has been or will be made 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 the submitted records contain the fingerprints of the requestor's client. 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), .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, 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. *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 to this requestor under section 560.002 of the Government Code.

You claim the remaining information is excepted from disclosure under section 552.134(a) of the Government Code, which relates to inmates of the department and provides in relevant part:

Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], 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.

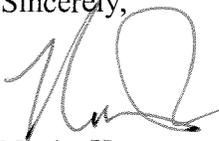
Gov't Code § 552.134(a). Upon review, we agree the remaining information is related to a former inmate of the department. We note none of the information at issue is subject to release under section 552.029 of the Government Code. *See id.* § 552.029. Accordingly, the department must withhold the remaining information under section 552.134 of the Government Code.<sup>1</sup>

In summary, the department must release the submitted fingerprints to this requestor pursuant to section 560.002 of the Government Code. The department must withhold the remaining information under section 552.134 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, 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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 434429

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)