



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 5, 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

OR2011-17886

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# 437932 (TDCJ# 239228).

The Texas Department of Criminal Justice (the "department") received a request for the requestor's records from a specified period. You state the department will release some information 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 submitted information contains the requestor's fingerprints. 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 section 560.003 of the Government Code, which provides, "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." *Id.* § 560.003; *see id.* § 560.001(1) ("biometric identifier" means retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry). However, section 560.002 of the Government Code provides, "[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). The fingerprints we have marked are those of the requestor; therefore, they must be released to him pursuant to section 560.002(1)(A) of the

Government Code. *See* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).

Section 552.134(a) of the Government Code encompasses information relating to inmates of the department and provides:

(a) 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.

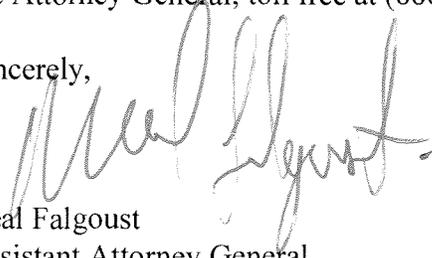
Gov't Code § 552.134(a). Upon review, we agree the remaining information concerns an individual confined as an inmate in a facility operated by the department. We find the exceptions in section 552.029 are not applicable in this instance. Therefore, the department must withhold the remaining information under section 552.134(a) of the Government Code.¹

In summary, the department must release the requestor's fingerprints, which we have marked, pursuant to section 560.002(1)(A) 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, 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

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¹As our ruling is dispositive, we do not address your remaining argument against disclosure.

Ref: ID# 437932

Enc. Submitted documents

c: Requestor
(w/o enclosures)