



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 20, 2012

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

OR2012-05645

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# 451224.

The Texas Department of Criminal Justice (the "department") received a request for two specified PER-186 forms pertaining to the requestor. You claim the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

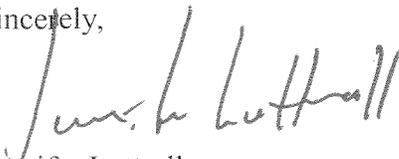
We must address the applicability of section 552.007 of the Government Code to the requested information. Section 552.007 provides that if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law. *See id.* 552.007; Open Records Decision Nos. 518 at 3 (1989), 400 at 2 (1983). The requestor has submitted with his comments copies of documents the department previously provided to him. Although you assert these documents are now excepted from disclosure under section 552.103, this section is discretionary and does not make information confidential or expressly prohibit its release for purposes of section 552.007. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived); *see*

also Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Accordingly, because the department previously released the submitted information, the department may not now withhold the submitted information under section 552.103. As you raise no other exceptions, the submitted information must be released to the requestor.¹

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JLU/dls

Ref: ID# 451224

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the information being released includes the requestor's social security number, to which he has a right of access pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). If the department receives another request for the information at issue from a different requestor, the department may withhold the requestor's social security number pursuant to section 552.147 of the Government Code without the necessity of requesting an attorney general decision. *See* Gov't Code § 552.147(b).