



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2012

Ms. Patricia Fleming
Assistant General Counsel
TDCJ- Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2012-12760

Dear Ms. Fleming:

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# 462089.

The Texas Department of Criminal Justice (the "department") received a request for the drug screening reports of the requestor's client. You claim that the requested 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.

We understand the requestor to argue she has a right of access to the requested information based on section 161.203 of the Health and Safety Code. Section 161.202 of the Health and Safety Code governs requests for medical records by a person's authorized representative "for use in supporting an application for disability benefits or other benefits or assistance the patient or former patient may be eligible to receive based on that patient's or former patient's disability[.]" Health & Safety Code § 161.202(a). Section 161.203 provides a "health care provider or health care facility" that receives a request under section 161.202 "shall provide to the requestor a medical or mental health record requested under section 161.202 not later than the 30th day after the date on which the provider or facility receives the request." *Id.* § 161.203. Section 161.201 defines "health care provider" as "a person who is licensed, certified, or otherwise authorized by the laws of this state to provide or render health care in the ordinary course of business or practice of a profession." *Id.* § 161.201. In this instance, you inform us the drug screening reports at issue are maintained by the department's parole

division (the “parole division”). The requestor has not demonstrated the parole division is a health care provider or health care facility for the purposes of section 161.203. Thus, we conclude chapter 161 of the Health and Safety Code does not apply to the information at issue and the requestor does not have a right of access to this information on that basis.

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 508.313 of the Government Code, which provides in part:

(a) All information obtained and maintained [by the department], 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 department] 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.

Id. § 508.313(a); *see id.* § 508.001(9) (“releasee” means a person released on parole or to mandatory supervision). You indicate the submitted information consists of parole records that are subject to section 508.313 of the Government Code. You state the requestor in this instance is not authorized to obtain this information under section 508.313(c). *See id.* § 508.313(c). Further, you state this information is not made public under chapter 62 of the Code of Criminal Procedure or section 552.029 of the Government Code. *See id.* § 508.313(e), (f). Accordingly, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.¹

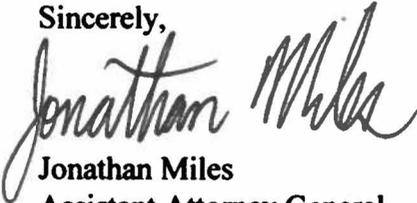
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

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

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/bhf

Ref: ID# 462089

Enc. Submitted documents

c: Requestor
(w/o enclosures)