



September 19, 2000

Ms. Karen Pettigrew
General Counsel
Texas Commission on Alcohol and Drug Abuse
9001 I-H 35, Suite 105
Austin, Texas 78753

OR2000-3604

Dear Ms. Pettigrew:

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# 139185.

The Texas Commission on Alcohol and Drug Abuse (the "commission") received a request for information, primarily relating to Travis House. You claim that the requested information is exempted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 464.010(e) of the Health and Safety Code reads:

(e) All records made by the commission during its investigation of alleged abuse or neglect are confidential and may not be released except that the release may be made:

- (1) on court order;
- (2) on written request and consent of the person under investigation or that person's authorized attorney; or
- (3) as provided by Section 464.011.

Section 464.011 provides that the commission may make its licensing and investigatory records available to state or federal law enforcement authorities on request and for official purposes. You state that the submitted information relates to complaints that were

investigated by the commission; therefore, we conclude that section 464.010 applies. Further, none of the release provisions found in sections 464.010 and 464.011 are applicable here. As such, the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 464.010(e) of the Health and Safety Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Crawford". The signature is written in black ink and is positioned above the typed name and title.

Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/er

Ref: ID# 139185

Encl: Submitted documents

cc: Mr. Richard G. Hardin
2209 Rio Grande Street
Austin, Texas 78705-5129
(w/o enclosures)