



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

January 25, 2018

Mr. Kenneth Moreland  
Assistant General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR2018-01701

Dear Mr. Moreland:

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# 696868.

The Office of the Governor (the "OOG") received a request for communications that reference specified terms. The OOG states it will withhold information pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> The OOG states it has released some of the requested information, but claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.<sup>2</sup> We have also considered comments submitted by the Texas Board of Pardons and Parole. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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<sup>1</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of seeking a decision from this office.

<sup>2</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses section 508.313 of the Government Code, which provides in relevant part, the following:

(a) All information obtained and maintained [by the Texas Department of Criminal Justice (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.

...

(c) The department, on request or in the normal course of official business, shall provide information that is confidential and privileged under Subsection (a) to:

(1) the governor;

(2) a member of the [Texas Board of Pardon and Paroles (the “board”)] or a parole commissioner;

(3) the Criminal Justice Policy Council in performing duties of the council under Section 413.017 [of the Government Code]; or

(4) an eligible entity requesting information for a law enforcement, prosecutorial, correctional, clemency, or treatment purpose.

*Id.* § 508.313(a), (c). Section 508.313 requires the department to transfer information to the board and the governor for consideration in clemency matters; such a transfer does not affect the confidentiality of the information. *See id.* § 508.313(c). The OOG states the information marked under section 508.313 was transferred by the board to the OOG for consideration in a clemency matter. Based on this representation, we agree the OOG must withhold the

information it has marked under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.

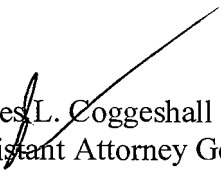
Section 552.139 provides information is excepted from required public disclosure "if it is information that relates to computer network security, to restricted information under Section 2059.055, or to the design, operation, or defense of a computer network." Gov't Code § 552.139(a). The OOG states the information it has marked under section 552.139 consists of an OOG public-facing internet protocol address. The OOG asserts release of this information could subject its computer systems to alteration, damage, erasure, and inappropriate use by individuals attempting to breach its technology systems. Upon review, we agree the OOG must withhold the information it has marked under section 552.139 of the Government Code.

In summary, the OOG must withhold the information it has marked under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code. The OOG must withhold the information it has marked under section 552.139 of the Government Code. The OOG must release the remaining information.

The Texas Board of Pardons and Parole requests a previous determination regarding information that it transfers to the OOG for consideration in clemency matters. However, we decline to issue one at this time. Accordingly, 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 more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tdw

Ref: ID# 696868

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)