



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 26, 2019

Mr. Sharbel Sfeir
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2019-05382

Dear Mr. Sfeir:

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# 751873 OGC#DT0106).

The Texas Department of Criminal Justice (the "department") received a request for specified parole board information pertaining to the requestor's client, excluding Parole Guideline Scores. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor has specifically excluded Parole Guideline Scores from her request. Thus, the submitted Parole Guideline Scores are not responsive to the instant request. The department need not release nonresponsive information in response to this request, and this ruling will not address that information.

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 290dd-2 of title 42 of the United States Code, which provides, in part:

- (a) Requirement. Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention,


training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

42 U.S.C. § 290dd-2(a); *see* 42 C.F.R. §§ 2.1 (records of identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with performance of drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of United States are generally confidential), 2.12(b) (discussing when an alcohol abuse or drug program is considered to be federally assisted). Thus, section 290dd-2 makes confidential the records of substance abuse patients that are created and maintained as part of their participation and treatment in a federally assisted substance abuse program. *See* 42 U.S.C. § 290dd-2(a). We understand you to assert some of the responsive information is confidential under section 290dd-2 of title 42 of the United States Code. However, upon review, we find the department has failed to demonstrate any of the information at issue consists of records of the identity, diagnosis, prognosis, or treatment of a patient maintained in connection with the performance of a program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research. Accordingly, the department may not withhold any of the responsive information under section 552.101 of the Government Code under section 290dd-2 of title 42 of the United States Code. The responsive information must be released.

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.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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/som

Ref: ID#751873

Enc. Submitted documents

c: Requestor
(w/o enclosures)