



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 20, 1998

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR98-0507

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112352.

The Texas Department of Criminal Justice (the "department") received a request for "all videotapes related to disciplinary actions, force moves or transfers, or any incident reflecting alleged breach of discipline or conduct by any inmate and/or corrections officer, recorded by or for the jail by any of its personnel or independent contractors hired by your department within any facility housing prisoners in your custody since [J]anuary 1, 1995." You submit to this office a representative sample of the requested information.¹ You assert that the requested materials are excepted from required public disclosure based on sections 552.101, 552.107(2) and 552.108 of the Government Code.

Section 552.107(2) of the Government Code excepts from required public disclosure information if "a court by order has prohibited disclosure of the information." You urge that the department is prohibited from disclosing the requested videos by court order. You have submitted to this office a copy of a portion of the Final Judgment in the case of *Ruiz v. Collins*, No. H-78-987 (S.D. Tex., filed Dec. 11, 1992) (the "Judgment"), which contains the following language in Section III.A.:

¹In reaching our conclusion here, we assume that 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) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

No prisoner shall be permitted to . . . obtain sensitive information about other prisoners absent a state or federal court order. . . . 'Sensitive information' is defined in Section I.G of the Stipulated Modification of Sections II.A and II.D of Amended Decree, but this definition may be modified by the Board of Criminal Justice as appropriate and consistent with the purposes of this paragraph III.

Section I.G. of the Stipulated Modification of Section II.D and Section II.A of the Amended Decree in the *Ruiz*² case indicates that "sensitive information" includes videotapes of instances of the use of force on inmates. *See* Open Records Decision No. 560 (1990). While the requestor here is not a prisoner, we believe the Judgment's prohibition against prisoners obtaining sensitive information would be thwarted by public release of such information. Thus, we conclude that the department must withhold the requested information from the requestor based on section 552.107(2) of the Government Code. *See* Open Records Letter No. 96-2133 (1996).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref: ID# 112352

Enclosure: Submitted video

cc: Mr. Wayne Dolcefino
KTRK TV
P.O. Box 13
Houston, Texas 77001
(w/o enclosure)

²*Ruiz v. Estelle*, 503 F. Supp. 1265 (S.D. Tex. 1980), *aff'd in part and vacated in part*, 679 F.2d 1115 (5th Cir.), *amended in part*, 688 F.2d 266 (5th Cir. 1982), *cert. denied*, 460 U.S. 1042 (1983).