



July 22, 1999

Mr. Jesse L. Whittenton
Walker, Bright & Whittenton, P.C.
1609 Shoal Creek Boulevard, Suite 300
Austin, Texas 78701

OR99-2064

Dear Mr. Whittenton:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 125162.

The Bastrop County Sheriff's Office (the "BCSO"), which you represent, received a request for a prisoner roster to include the following information:

the complete name, identification number, the housing address, the charges pending, and (if possible) whether there is an INS hold on such detainee.

The information at issue consists of two prisoner rosters, exhibits C-1 and C-2. Exhibit C-1 is a roster of state prisoners, and exhibit C-2 is a roster of federal prisoners. You do not contend that exhibit C-1 is excepted from disclosure, and therefore we assume that the BCSO will provide the requestor with a copy of exhibit C-1. You contend that the requestor should direct his request for information about federal inmates to the respective federal agencies responsible for the inmates. Alternatively, you claim that the names and housing addresses of federal prisoners in the custody of the BCSO are excepted from disclosure pursuant to sections 552.101 and 552.108 of the Government Code.¹

We begin by considering whether the roster of federal prisoners is subject to public disclosure under the act in the hands of the BCSO. You explain that the BCSO has a contract with the federal government to house federal inmates in the BCSO jail. For this reason, you contend that a request for information about federal inmates must be directed to the federal agencies responsible for those inmates. In other words, it is your position that the roster of federal prisoners in the hands of the BCSO is not subject to disclosure under the act.

¹You explain that exhibit C-2 does not contain information about the crimes with which the federal inmates are charged because "[u]nder the terms of the agreements [with federal agencies], B.C.S.O. is not advised of the charges against the federal inmates being held."

Section 552.002(a) of the Government Code provides

In this chapter, "public information" means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

"Public information" must be made available to the public unless it is excepted from disclosure. *See* Gov't Code § 552.021. The fact that the roster of federal prisoners is in the BCSO's possession and is being maintained in connection with the transaction of official business makes the roster subject to public disclosure under the act. *See* Open Records Decision Nos. 231 (1979), 142 (1976).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." A federal statute or administrative regulation enacted pursuant to statutory authority can provide statutory confidentiality for purposes of section 552.101. *See* Open Records Decision Nos. 476 (1987), 226 (1979). Section 513.34(b) of title 28 of the Code of Federal Regulations states that "[l]ists of Bureau inmates shall not be disclosed." 28 C.F.R. § 513.34(b). This federal regulation bars the release of exhibit C-2. Therefore, the BCSO must withhold exhibit C-2 from disclosure under section 552.101 as information deemed confidential by section 513.34(b).

Because we are able to resolve this matter under section 552.101, we do not address your section 552.108 claim. We are resolving this matter with an 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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 125162

Encl. Submitted documents

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(w/o enclosures)