OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

January 11, 2000

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

OR2000-0101

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130999.

The Texas Department of Criminal Justice ("TDCJ") received a request for a certified copy of the Visitor's Log showing a particular individual's signature. The requestor in this instance is an attorney and he is requesting information that pertains to his client who allegedly visited an inmate at the John B. Connally Corrections Unit. The requestor states that the only information he seeks is a certified copy of the Visitor's Log page for September 4, 1999, reflecting his client's signature, the date and the institution's name. You claim that the requested information is excepted from disclosure under sections 552.101, 552.107(2) and 552.131 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.131(a) relating to TDCJ inmates states:

> Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the Texas Department of Criminal Justice is excepted from the requirements of Section 552.021 if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Notwithstanding the requestor's characterization of the information requested, it is information obtained by TDCJ and, as it relates to an inmate confined in a TDCJ facility, it is excepted from disclosure under section 552.131. However, the document submitted for review contains information that is subject to disclosure under section 552.029 which we have marked. Therefore, with the exception of the section 552.029 information, TDCJ must withhold the information under section 552.131.

Because section 552.131 is dispositive, we will not address the other exceptions claimed. 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.

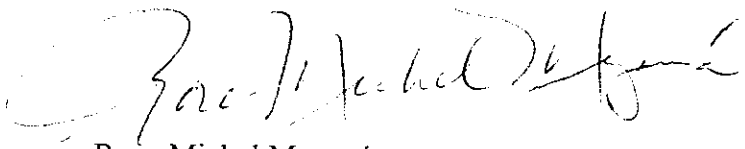
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge 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).

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,



Rose-Michel Munguía
Assistant Attorney General
Open Records Division

RMM/jc

Ref: ID# 130999

Encl. Submitted documents

cc: Mr. Oscar A. Vela, Jr.
1800 Victoria
Laredo, Texas 78040
(w/o enclosures)