



May 16, 2000

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

OR2000-1918

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# 135232.

The Department of Criminal Justice (the "department") received a request for ten categories of information regarding prison mailroom operations. You claim that some information which is responsive to one of these categories is excepted from public disclosure under sections 552.107 and 552.131 of the Government Code. You indicate that you will release all other responsive information. You have supplied the responsive information which you seek to withhold to this office for review. We have considered the exceptions you claim and reviewed the submitted information.

You contend that the supplied information is responsive to the following request category:

4. "Any and all" completed reports, completed investigations of William P. Clements, Jr. Unit mailroom personnel in the past 24 months, that was conducted by TDCJ and/or outside agencies pertaining to TDCJ rule infractions, TDCJ disciplinary misconduct and/or violations of state or federal law.

Section 552.131 provides:

- (a) 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.

(b) Subsection (a) does not apply to:

(1) statistical or other aggregated information relating to inmates confined in one or more facilities operated by or under a contract with the department; or

(2) information about an inmate sentenced to death.

(c) This section does not affect whether information is considered confidential or privileged under Section 508.313.¹

(d) A release of information described by Subsection (a) to an eligible entity, as defined by Section 508.313(d), for a purpose related to law enforcement, prosecution, corrections, clemency, or treatment is not considered a release of information to the public for purposes of Section 552.007 and does not waive the right to assert in the future that the information is excepted from required disclosure under this section or other law.

Section 552.131 is explicitly made subject to section 552.029. This section reads

Notwithstanding Section 508.313 or 552.131, the following information about an inmate who is confined in a facility operated by or under a contract with the Texas Department of Criminal Justice is subject to required disclosure under Section 552.029:

(1) the inmate's name, identification number, age, birthplace, physical description, or general state of health or the nature of an injury to or critical illness suffered by the inmate;

(2) the inmate's assigned unit or the date on which the unit received the inmate, unless disclosure of the information would violate federal law relating to the confidentiality of substance abuse treatment;

(3) the offense for which the inmate was convicted or the judgment and sentence for that offense;

¹ Government Code section 508.313(a) governs all information obtained and maintained by the Board of Pardons and Paroles that concerns an inmate of the institutional division subject to release on parole, release to mandatory supervision, or executive clemency; a releasee; or a person directly identified in any proposed plan of release for an inmate.

- (4) the county and court in which the inmate was convicted;
- (5) the inmate's earliest or latest possible release dates;
- (6) the inmate's parole date or earliest possible parole date;
- (7) any prior confinement of the inmate by the Texas Department of Criminal Justice or its predecessor; or
- (8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

We find that the submitted materials responsive to request category 4, are “about an inmate” and are not in a category enumerated in section 552.029 of the Government Code. Consequently, these materials must be withheld under section 552.131. As the information must be withheld under section 552.131, we do not address your arguments raised under section 552.107.

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 135232

Encl Submitted documents

cc: Ms. Mary Rugg
3220 Voss Drive
El Paso, Texas 79936-1915
(w/o enclosures)