



November 16, 2000

Mr. John Bradley  
First Assistant District Attorney  
Williamson County  
405 M.L.K. No. 1  
Georgetown, Texas 78626

OR2000-4432

Dear Mr. Bradley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 141831.

The Williamson County District Attorney's Office (the "office") received a request for four categories of information. You claim that the requested information is excepted from disclosure under sections 552.027, 552.108, and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You state that this request should be denied because the request is from an incarcerated individual. You state that section 552.027 of the Government Code supports this claim. We note that the correct section is 552.028 of the Government Code. Section 552.028 provides:

- (a) A governmental body is not required to accept or comply with a request for information from:
- (1) an individual who is imprisoned or confined in a correctional facility;  
or
  - (2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

(c) In this section, 'correctional facility' has the meaning assigned by Section 1.07(a), Penal Code.

Gov't Code § 552.028. We conclude that the provisions of section 552.028 of the Government Code govern your request. Because the individual requesting the information at issue is imprisoned in a correctional facility, the Public Information Act gives your office the discretion to either "comply with" this open records request or deny it in its entirety. Therefore, we conclude that you do not need to comply with this request.

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).

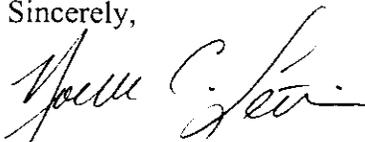
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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,

A handwritten signature in black ink, appearing to read "Noelle C. Letteri". The signature is fluid and cursive, with the first name being the most prominent.

Noelle C. Letteri  
Assistant Attorney General  
Open Records Division

NCL/seg

Ref: ID# 141831

cc: Mr. Charles Hemphill  
Joe Rey Unit  
114 Private Road  
Hondo, Texas 78861