



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

October 2, 2008

Ms. Patricia Fleming  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342

OR2008-13561

Dear Ms. Fleming:

~~You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 323366.~~

The Texas Department of Criminal Justice (the "department") received a request for all records pertaining to a named inmate. You claim the submitted inmate records are excepted from disclosure under sections 552.101 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.134 of the Government Code, which relates to inmates and former inmates of the department, provides in relevant part:

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

Gov't Code § 552.134(a). The submitted information consists of information about an individual confined as an inmate in a facility operated by the department. Thus, we agree this information is subject to section 552.134. We also find none of the submitted information is subject to release under section 552.029 of the Government Code. The

requestor states he is the inmate's attorney and has provided an authorization to release information signed by the inmate. Section 552.023 of the Government Code gives a person or that person's authorized representative a "special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." *See id.* § 552.023. We note, however, that section 552.134 does not protect only the inmate's privacy interests. Therefore, section 552.023 does not provide the requestor a special right of access to the submitted information. Accordingly, the submitted inmate records are excepted from disclosure under section 552.134 of the Government Code and must be withheld. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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).

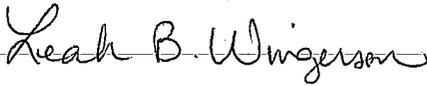
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/ma

Ref: ID# 323366

Enc. Submitted documents

c: Mr. Sean R. Buckley  
Habern, O'Neil, Buckley & Pawgan, L.L.P.  
P.O. Box 8930  
Huntsville, Texas 77340  
(w/o enclosures)