ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 16, 2009

Mr. Philip A. DeFriend
Assistant General Counsel
TDCJ–Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2009-00672

Dear Mr. DeFriend:

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# 332488.

The Texas Department of Criminal Justice (the "department") received a request for the complete prison records of the requestor's client. You state non-confidential, responsive information will be released to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.134 of the Government Code.[1] We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor limited his request to information regarding a particular inmate. You have submitted a document pertaining to an inmate other than the one listed in the request; such information is not responsive to this request. This decision does not address the public availability of the non-responsive information, and the department need not release that information to the requestor. Therefore, we will address your arguments with regard to the responsive information.

Section 552.134 of the Government Code relates to information about inmates of the department and provides in relevant part:

> (a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the Texas Department of Criminal Justice is

[1]We note that in your letter dated November 19, 2008, you have withdrawn your remaining assertions under the Act.

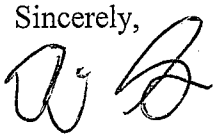
> excepted from the requirements of Section 552.021 if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Gov't Code § 552.134(a). You inform us the records at issue pertain to an inmate confined in a facility operated by the department. Based on this representation, we agree the submitted information is subject to section 552.134. We find that the exceptions in section 552.029 are not applicable. However, we note the requestor has submitted an "Authorization for Release of 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." *Id.* § 552.023. Section 552.134 does not protect only the inmate's privacy interest, but also protects the interests of the governmental body. As such, the requestor does not have a special right of access to this information under section 552.023. *See id.* § 552.023(b) (governmental body may assert provisions of Act or other law that are not intended to protect person's privacy interests to withhold information to which requestor may otherwise have a special right of access). Accordingly, the department must withhold the submitted information under section 552.134 of the Government Code.[2]

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Emily Sitton
Assistant Attorney General
Open Records Division

EBS/eeg

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[2]As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 332488

Enc. Submitted documents

c: Requestor
(w/o enclosures)