



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 20, 2011

Mr. J. Greg Hudson
Hudson & O'Leary, L.L.P.
1010 Mopac Circle, Suite 201
Austin, Texas 78746

OR2011-07137

Dear Mr. Hudson:

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# 418157.

The Reeves County Detention Center (the "center"), which is operated by The GEO Group, Inc. ("GEO"), which you represent, received a request for the policies, procedures, rules, regulations, and standards applicable to the center during a specified time period and specified written agreements.¹ The center and GEO claim that the requested information is excepted from disclosure under sections 552.103, 552.108, and 552.110 of the Government Code. You also state release of the requested information may implicate the proprietary interests of Physicians Network Association, P.A. ("PNA"). Accordingly, you state, and provide documentation showing, you notified PNA of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances).

¹We note the center sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

We have received comments from PNA. We have considered the submitted arguments and reviewed the submitted representative sample of information.²

Initially, PNA informs us that its information at issue is the subject of a pending lawsuit filed against this office: *Physicians Network Ass'n, P.A. v. Greg Abbott, Attorney Gen. for the State of Tex.*, No. D-1-GN-09-001552 (200th Dist. Ct., Travis County, Tex.). Accordingly, with respect to PNA's information, we decline to issue a decision and will allow the trial court to resolve the issue of whether any portion of this information must be released to the public.

Next, we note the remaining information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2011-01613 (2011). As we have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based, the center must rely on Open Records Letter No. 2011-01613 as a previous determination and continue to withhold the information that was ordered withheld in that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). The remaining information at issue in Open Records Letter No. 2011-01613 was ordered released. That information is now the subject of pending litigation styled *Reeves County, Tex. v. Greg Abbott, Attorney General of Tex.*, No. D-1-GN-11-000434 (353rd Dist. Ct., Travis County, Tex.). We do not address the public availability of the information that is currently the subject of that litigation, and will allow the trial court to determine whether and to what extent such information must be released to the public.

In summary, with respect to PNA's information, we decline to issue a decision and will allow the trial court to resolve the issue of whether any portion of this information must be released to the public. The center must rely on Open Records Letter No. 2011-01613 as a previous determination and continue to withhold the information that was ordered withheld in that ruling. This ruling does not address the information that was ordered released in Open Records Letter No. 2011-01613, pending the trial court's determination of whether and to what extent such information must be released.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eeg

Ref: ID# 418157

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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