



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 20, 1998

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

OR98-0504

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112730.

The Texas Department of Criminal Justice (the "department") received a request from an inmate's attorney for the inmate's medical records and all photographs concerning an alleged use of excessive force at the J.W. Estelle Unit on July 23, 1997. You explain that you will furnish the medical records to the requestor. You assert that the remaining requested materials are exempted from required public disclosure based on sections 552.101, 552.107(2) and 552.108 of the Government Code.

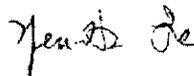
Section 552.107(2) of the Government Code exempts from required public disclosure information if "a court by order has prohibited disclosure of the information." You urge that the department is prohibited by court order from disclosing the use of force records. You have submitted to this office a copy of a portion of the Final Judgment in the case of *Ruiz v. Collins*, No. H-78-987 (S.D. Tex., filed Dec. 11, 1992) (the "Judgment"), which contains the following language in Section III.A.:

No prisoner shall be permitted . . . to obtain sensitive information about other prisoners absent a state or federal court order. . . . "Sensitive information" is defined in Section I.G of the Stipulated Modification of Sections II.A and II.D of Amended Decree, but this definition may be modified by the Board of Criminal Justice as appropriate and consistent with the purposes of this paragraph III.

Section I.G. of the Stipulated Modification of Section II,D and Section II,A of the Amended Decree in the *Ruiz*<sup>1</sup> case indicates that "sensitive information" includes use of force reports and grievances. See Open Records Decision No. 560 (1990). The requestor, here, is an inmate's attorney. We believe the Judgment's prohibition against prisoners obtaining sensitive information would be thwarted by public release of such information. Thus, we conclude that the department must withhold the remaining requested information from the requestor based on section 552.107(2) of the Government Code.

As we have resolved the matter under section 552.107(2), we need not address your other arguments against public disclosure. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/rho

Ref.: ID# 112730

Enclosures: Submitted documents

cc: Mr. Peter Hofer  
Staff Counsel  
Texas Civil Rights Project  
2212 E. Martin Luther King Blvd.  
Austin, Texas 78702-1344  
(w/o enclosures)

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<sup>1</sup>*Ruiz v. Estelle*, 503 F. Supp. 1265 (S.D. Tex. 1980), *aff'd in part and vacated in part*, 679 F.2d 1115 (5<sup>th</sup> Cir.), *amended in part*, 688 F.2d 266 (5<sup>th</sup> Cir. 1982), *cert. denied*, 460 U.S. 1042 (1983).