



January 11, 2000

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
PO Box 4004
Huntsville, Texas 77342

OR2000-0104

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 131094.

The Texas Department of Criminal Justice (the "department") received a request for certain information regarding a particular inmate. You contend that the requested information is excepted from required disclosure under section 552.131 of the Government Code and under section 552.107(2) in conjunction with *Ruiz*.¹

Sections 552.029 and 552.131, as added by Act of May 26, 1999, 76th Leg., R.S., ch. 783, §1, 1999 Tex. Sess. Law Serv. 3407, 3407-3408 (Vernon), are new provisions clarifying the availability of inmate information. Section 552.131 provides that "[e]xcept as provided by . . . section 552.029, 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 . . . the department."

Sections 552.131 and 552.029 specify categories of inmate information that are "subject to

¹This ruling is limited to the application of sections 552.029 and 552.131 of the Government Code. This ruling does not consider the applicability and effect of the Final Judgment in the case of *Ruiz v. Collins*, No. H-78-987 (S.D. Tex., filed Dec. 11, 1992), to the information at issue. However, we note that *Ruiz* is still in effect and it prohibits the release of certain "sensitive information," which may include information required to be released under section 552.029. We remind you that section 552.107(2) of the Government Code requires you to withhold information that is made confidential by court order, and that section 552.352 prescribes criminal penalties for the disclosure of confidential information.

required disclosure,” exclude certain other categories from their ambit, and except all unspecified categories of inmate information from disclosure. We are of the opinion that by detailing the categories of inmate information that can be released, the legislature intended that all other inmate information not be released. Therefore, with the exception of the information specified as subject to public disclosure in section 552.029 and the information excluded by section 552.131(b) (statistical information and information about inmates sentenced to death), all information obtained or maintained by the department about an inmate who is confined in a facility operated by or under a contract with the department is made confidential by Government Code section 552.131.

We conclude that the department must withhold the requested information pursuant to section 552.131. *See also* Open Records Decision No. 430 (1985) (list of inmate’s visitor’s protected by constitutional privacy); *cf.* Open Records Decision No. 428 (1985) (list of inmate’s correspondents protected by constitutional privacy).

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,



William M. Walker
Assistant Attorney General
Open Records Division

WMW/RWP/ljp

Ref.: ID# 131094

cc: Ms. Sara Rushing Davis
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(w/o enclosures)