



June 25, 2002

Mr. James L. Hall
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR2002-3459

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 164819.

The Texas Department of Criminal Justice (the "department") received a request for sixteen enumerated categories of information. Two of the sixteen categories of the request are paraphrased below:

- The disciplinary reports of a named individual for the time period that individual was in department custody, and
- The names, home addresses and home telephone numbers of all officers assigned to Administrative Segregation during the same time as the requestor.

With respect to the above-referenced request for disciplinary reports, you explain that the department has requested clarification from the requestor, specifically so that the department may correctly identify the individual to whom that request pertains and locate any responsive information. You further represent that upon receiving clarification from the requestor, the department will either release the responsive information, or will request a separate decision from this office for any information that the department seeks to withhold.¹ With respect to the above-referenced request for information about officers assigned to Administrative Segregation, you represent that the department has released the names of the officers. You assert that the requested addresses and telephone numbers are excepted from disclosure under

¹Because you represent that the department, upon receiving clarification, will either release the information or request a separate decision from this office, this decision does not address any information that may be responsive to the above-referenced request for disciplinary reports.

section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that with respect to the remaining fourteen enumerated categories of the request, you state that the department has no objection to releasing the responsive information. We therefore conclude that to the extent the department has not yet released any of the information that is responsive to the remaining fourteen categories of the request, the department must release it to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302. We will now address the applicability of your claimed exception to the requested addresses and telephone numbers, a representative sample of which you have submitted for our review.²

Section 552.117(3) of the Government Code exempts from public disclosure, among other things, the home addresses and home telephone numbers of department employees. *See* Gov't Code § 552.117. We understand the information at issue to consist of home addresses and home telephone numbers of individuals who are currently employed with the department. Therefore, we agree that the department must withhold the requested home addresses and home telephone numbers, in accordance with section 552.117(3) of the Government Code.

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

²We assume that the "representative sample" of information submitted to this office is truly representative of the information as a whole that the department seeks to withhold. *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 substantially different types of information than that submitted to this office.

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).

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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Michael H. Garbarino
Assistant Attorney General
Open Records Division

MG/seg

Ref: ID# 164819

Enc: Submitted documents

c: Mr. Cameron E. Oliver
717 El Paso Street
Jacksonville, Texas 75766
(w/o enclosures)