



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 9, 2003

Ms. Jennifer McClure
Assistant District Attorney
County of Dallas
411 Elm Street, 5th Floor
Dallas, Texas 75202-3384

OR2003-8827

Dear Ms. McClure:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 192373.

Dallas County (the "county") received a request for "any and all documents that show any collect calls made from the Dallas County Jail" to two specified telephone numbers. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.¹

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses constitutional privacy. In Open Records Decision Nos. 428 (1985) and 430 (1985), this office concluded that inmate visitor and mail logs which identify inmates and those who choose to visit or correspond with inmates are protected under constitutional law. *See* Open Records Decision Nos. 430 at 6 (1985) (list of inmate's visitors protected by constitutional law), 428 (1985) (list of inmate's correspondents protected by constitutional law); *see also* Open Records Decision No. 185 (1978) (finding outside correspondents to have First Amendment right to correspond with inmates that would be threatened if their names were released).

¹We assume that the 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.

You contend that the same principles that were at issue in those decisions should apply to make the requested information confidential in this instance. We note, however, that the records at issue here do not identify the party or parties who made the calls or the party or parties to whom the calls were made. The records contain no indication that the individual or individuals who made these calls was or were an inmate or inmates. Because the requested information does not identify any individual, we find that it is not made confidential under constitutional privacy principles, and it may not be withheld under section 552.101 on that basis. As you claim no other exception for the requested information and it is not otherwise confidential by law, we find that the requested information must be released.

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).

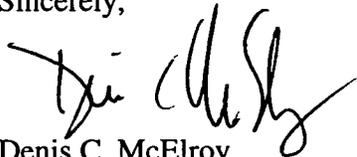
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Dep't of Pub. 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,



Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/lmt

Ref: ID# 192373

Enc. Submitted documents

c: Ms. Becky Oliver
c/o Jennifer McClure
County of Dallas
411 Elm Street, 5th Floor
Dallas, Texas 75202
(w/o enclosures)