



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 22, 2006

Ms. Carla M. Cordova
Assistant General Counsel
Texas Department of Criminal Justice
P.C. Box 4004
Huntsville, Texas 77342-4004

OR2006-09621

Dear Ms. Cordova:

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# 258418.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to the requestor, a former department employee. You claim that the requested information is excepted from disclosure under section 552.134 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.134 of the Government Code relates to inmates of the department and provides in relevant part:

(a) Except as provided by Subsection

(b) or by Section 552.029 [of the Government Code], 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 or under a contract with the department.

Gov't Code § 552.134(a). In this instance, the submitted information pertains to an investigation into possible violations of department policy by the requestor. The information includes written statements, an interoffice communication, a banking history form, and a commissary order slip. The department argues that the submitted information must be withheld under section 552.134. However, upon review, we find that the only information

in the submitted records regarding an inmate are an inmate's name, written statement, banking history form, and commissary order slip. Accordingly, the department must withhold the inmate's name, written statement, banking history form, and commissary order slip, all of which we have marked, under section 552.134. However, as none of the remaining information pertains to an inmate, we find that it may not be withheld under section 552.134. *See id.* As you raise no other exceptions to disclosure, the remaining information must be released to the requestor.¹

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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).

¹We note that some of the remaining information is normally excepted from disclosure under section 552.117(a)(3) of the Government Code. However, the requestor has a special right of access to this information because it pertains to her. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates on grounds that information is considered confidential by privacy principles). If the department receives a future request for this information from an individual other than the requestor or her agent, the department should again seek our decision.

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 Office of the Attorney General 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. 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,

A handwritten signature in black ink, appearing to read 'JAP', written over a horizontal line.

James A. Person III
Assistant Attorney General
Open Records Division

JAP/dh

Ref: ID# 258418

Enc. Submitted documents

c: Ms. Debra Koestler
P.O. Box 856
Riverside, Texas 77367
(w/o enclosures)