



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 31, 2007

Mr. John C. West
General Counsel
Office of the Inspector General
Texas Department of Criminal Justice
P.O. Box 13084
Austin, Texas 78711

OR2007-14276

Dear Mr. West:

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# 293732.

The Texas Department of Criminal Justice's Office of the Inspector General (the "OIG") received a request for all witness statements pertaining to a specified investigation. You state that some of the requested information is subject to a previous ruling. You claim that the remaining information is excepted from disclosure under sections 552.103 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state that some of the requested information is subject to a previous ruling from this office. In Open Records Letter No. 2006-01174 (2006), we concluded that the OIG must withhold the information at issue under section 552.134 of the Government Code. We presume that the pertinent facts and circumstances have not changed since the issuance of

that prior ruling.¹ Accordingly, the OIG must continue to rely on our prior ruling with respect to the information at issue. *See* Gov't Code § 552.301(f); ORD 673.

We now address the remaining information that is not subject to a previous ruling. Section 552.134 of the Government Code relates to inmates of the Texas Department of Criminal Justice. This exception 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). You state, and the submitted information reflects that the information at issue concerns inmates confined in a facility operated by the OIG. Thus, we agree that the information at issue is subject to section 552.134. We also find that none of the information at issue is subject to release under section 552.029 of the Government Code. Therefore, the information at issue is excepted from disclosure under section 552.134 of the Government Code and must be withheld.

In summary, the OIG must continue to rely on our ruling in Open Records Letter No. 2007-01174. The OIG must withhold the remaining information under section 552.134.²

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

¹The four criteria for this type of "previous determination" are 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the attorney general's prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and 4) the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. *See* Open Records Decision No. 673 (2001).

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

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).

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,



Loan Hong-Turney
Assistant Attorney General
Open Records Division

LH/eeg

Ref: ID# 293732

Enc. Submitted documents

c: Mr. Anthony R. Griffin
c/o John C. West
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(w/o enclosures)