



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 25, 2005

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

OR2005-04589

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# 225034.

The Texas Department of Criminal Justice's Office of the Inspector General (the "OIG") received a request for information regarding a specific inmate. You state that you have released a portion of the requested information, but claim that the remainder of the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.134 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.134 of the Government Code relates to inmates of the Texas Department of Criminal Justice and provides in relevant part the following:

(a) Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the Texas

¹ You also raise section 552.029 of the Government Code. We note section 552.029 is not an exception to disclosure under the Act, but rather provides that certain information concerning an inmate of the Texas Department of Criminal Justice is required to be disclosed. *See* Gov't Code § 552.029; *see also id.* § 552.301(a) (noting that exceptions to disclosure under Act are found at subchapter C of chapter 552 of Government Code). Thus, section 552.029 itself does not provide a basis for withholding information from disclosure.

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). Section 552.029 of the Government Code provides:

Notwithstanding Section 508.313 or 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the [department] is subject to required disclosure under Section 552.021:

....

(8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

Gov't Code § 552.029(8). We note that section 552.134 is explicitly made subject to section 552.029. Pursuant to section 552.029(8), basic information regarding the death of an inmate in custody, an alleged crime involving an inmate, and an incident involving the use of force is subject to required disclosure.

You state, and the submitted records reflect, that the submitted information concerns inmates confined in a facility operated by the Texas Department of Criminal Justice. Thus, we agree that section 552.134 is applicable to the submitted information. However, some of the submitted documents relate to crimes involving inmates. Thus, while the OIG must generally withhold the submitted information under section 552.134, the OIG must release basic information regarding crimes involving an inmate pursuant to section 552.029(8). Basic information includes the time and place of the incident, names of inmates and department officials directly involved, a brief narrative of the incident, a brief description of any injuries sustained, and information regarding criminal charges or disciplinary actions filed as a result of the incident.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

²As our ruling is dispositive, we need not address your remaining arguments for withholding the submitted information.

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).

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,



James A. Person III
Assistant Attorney General
Open Records Division

JP/sdk

Ref: ID# 225034

Enc. Submitted documents

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(w/o enclosures)