



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 3, 2008

Ms. Patricia Fleming  
Assistant General Counsel  
Texas Department of Criminal Justice  
Office of the General Counsel  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2008-14991

Dear Ms. Fleming:

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# 326607.

The Texas Department of Criminal Justice (the "department") received a request for "contact logs, disciplinaries, and disciplinary actions from March 8, 2006 to August 18, 2008." You state that you have made some of the requested information available to the requestor. You claim that the submitted 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.<sup>1</sup>

Section 552.134 of the Government Code is applicable to information relating to inmates of the department. This exception states that

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<sup>1</sup>We assume that, to the extent any additional responsive information existed when the department received the request for information, you have released it to the requestor. If not, then you must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

[e]xcept as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the [department] 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 that

[n]otwithstanding . . . Section 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.

*Id.* § 552.029(8). Thus, the legislature explicitly made section 552.134 subject to section 552.029.

We find that section 552.134(a) is generally applicable to most of the submitted information. We also note that some of the information at issue is related to an incident that involved a use of force. The department must release basic information about that incident under section 552.029(8). The basic information that must be released includes the time and place of the incident, the names of inmates and department employees who were involved, a brief narrative of the incident, a brief description of any injuries sustained by anyone involved, and information regarding any criminal charges or disciplinary actions that were filed as a result of the incident. Thus, with the exception of basic information from the use of force incident at issue, the department must withhold the information we have marked under section 552.134 of the Government Code. However, we find that the remaining information, which consists of employee hearing guidelines, does not relate to an inmate confined in a facility operated by the department. Thus, the remaining information may not be withheld on this basis and must be released.

In summary, except for basic information regarding the use of force incident, the department must withhold the information we have marked under section 552.134 of the Government Code. The remaining information must be released.<sup>2</sup>

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<sup>2</sup>We note that the requestor in this instance has a special right of access to some of the information being released. Gov't Code § 552.023 (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). Should the department receive another request for these

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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 challenge 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

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same records from a person who would not have a special right of access to the private information, the department should resubmit this same information and request another ruling from this office. *See id.* §§ 552.301(a), .302.

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/ma

Ref: ID# 326607

Enc. Submitted documents

c: Mr. Kevin Davenport  
P.O. Box 9831  
College Station, Texas 77842  
(w/o enclosures)