



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 30, 2009

Mr. James Mu  
Assistant General Counsel  
TDCJ- Office of the General Counsel  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2009-01225

Dear Mr. Mu:

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# 333624.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a named inmate of the department. You state the department has released some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you acknowledge, and we agree, that you failed to comply with section 552.301 of the Government Code in seeking an open records decision from this office. A governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Sections 552.101 and 552.134 of the Government Code

can provide compelling reasons to overcome this presumption; therefore, we will consider the department's claims under these exceptions.

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). Section 552.134 is explicitly made subject to section 552.029 of the Government Code, which provides in pertinent part:

[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). Upon review, we find the submitted information relates to inmates confined in a facility operated by the department. We note, however, that some of this information relates to an alleged crime involving an inmate. Therefore, basic information concerning this incident must be released. *See id.* 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. Accordingly, with the exception of the basic information, which must be released, the department must withhold the submitted information under section 552.134 of the Government Code.<sup>1</sup>

This letter ruling is limited to the particular information 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 information or any other circumstances.

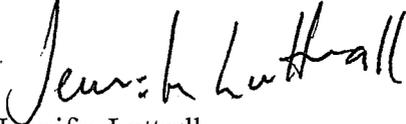
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure for this information.

responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Luttrall".

Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/eeg

Ref: ID# 333624

Enc. Submitted documents

c: Requestor  
(w/o enclosures)