



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 23, 2009

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

OR2009-05420

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# 340807.

The Texas Department of Criminal Justice (the "department") received a request for information relating to the punishment of a department inmate following a specified incident, including photographs of evidence, hearing records, and grievances filed as a result of the punishment. The requestor also seeks information on grievances filed against a named corrections officer. You state you have released or will release a portion of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.134 of the Government Code. We have considered the exceptions 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). Section 552.134 is explicitly made subject to section 552.029, which provides in relevant part the following:

Notwithstanding . . . Section 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the Texas Department of Criminal Justice 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). Upon review, we agree that Items 1 through 5 relate to a department inmate and must be withheld pursuant to section 552.134.<sup>1</sup> Further, we agree that most of the information in Item 6 relates to a department inmate. We have marked the information in Item 6 that is subject to section 552.134. Some of this information deals with a use of force and an alleged crime involving an inmate. Accordingly, basic information regarding these incidents is subject to required disclosure under section 552.029(8), and must be released notwithstanding section 552.134. 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. We note, however, that the remaining information in Item 6 pertains to a disciplinary action against the corrections officer. These disciplinary records do not constitute information about an inmate for the purposes of section 552.134 and may not be withheld on that basis.

Finally, we note that the remaining information in Item 6 contains information subject to section 552.117 of the Government Code.<sup>2</sup> Section 552.117(a)(3) excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former department employees, regardless of whether the current or former employee complies with section 552.1175. Gov't Code § 552.117(a)(3). Therefore, the department must withhold the information we have marked pursuant to section 552.117(a)(3).

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<sup>1</sup>Since our ruling is dispositive of Items 1 through 5, we need not address your remaining arguments against disclosure of those items.

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, Items 1 through 5 must be withheld in their entirety pursuant to section 552.134 of the Government Code. With the exception of basic information relating to the use of force and the crime involving an inmate, which must be released pursuant to section 552.029(8) of the Government Code, the information we have marked in Item 6 must be withheld pursuant to section 552.134 of the Government Code. The marked information in Item 6 relating to a department employee must be withheld pursuant to section 552.117 of the Government Code. The remaining information in Item 6 must be released.

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 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,



Karen E. Stack  
Assistant Attorney General  
Open Records Division

KES/jb

Ref: ID# 340807

Enc. Submitted documents

c: Requestor  
(w/o enclosures)