



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 26, 2010

Mr. John C West
General Counsel
Office of Inspector General
Texas Department of Criminal Justice
4616 Howard Lane, Suite 250
Austin, Texas 78728

OR2010-05855

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# 377018 (OIG Open Records No. 2010-00027).

The Texas Department of Criminal Justice's ("TDCJ") Office of the Inspector General (the "OIG") received a request for any documentation concerning #UF.13.0298.07.HJ. You state OIG will release basic information to the requestor. *See* Gov't Code § 552.029(8) (stating that, notwithstanding provisions of Gov't Code § 552.134, basic information regarding death of inmate in custody, incident involving use of force, or alleged crime involving inmate is subject to required public disclosure).¹ In releasing basic information, you state OIG will make redactions pursuant to the previous determination issued by this office in Open Records Letter No. 2005-01067 (2005).² You claim the remaining submitted records are excepted from disclosure under sections 552.101, 552.107, 552.108, 552.117, 552.134, 552.147,

¹Basic information includes the time and place of the incident, names of inmates and TDCJ 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.

²Open Records Letter No. 2005-01067 authorizes the department to withhold the present and former home addresses and telephone numbers, social security numbers, and family member information of its current or former employees under section 552.117(a)(3) of the Government Code, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, without the necessity of requesting a decision under the Act. *See* Open Records Decision No. 673 (2001) (listing elements of first type of previous determination under section 552.301(a) of the Government Code).

and 552.1175 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert the submitted records, which pertain to an internal investigation into an alleged incident of unnecessary use of force by a TDCJ employee against an inmate, are excepted from disclosure under section 552.134 of the Government Code. Section 552.134, which relates to inmates and former inmates of the department, provides in relevant part:

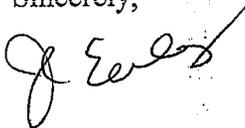
(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by [TDCJ] is excepted from the requirements of Section 552.021 if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Gov't Code § 552.134(a). The legislature explicitly made section 552.134 subject to section 552.029 of the Government Code. *Id.* Section 552.029 provides, among other things, that basic information regarding an incident involving the use of force against an inmate may not be withheld under section 552.134. *Id.* § 552.029(8). Because you state OIG will release the basic information, we conclude OIG must withhold the remaining records under section 552.134. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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, 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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 377018

Enc. Submitted documents

c: Requestor
(w/o enclosures)