



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 14, 2010

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

OR2010-06946

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# 379433.

The Texas Department of Criminal Justice (the "department") received a request for the fact finding record pertaining to the major use of force investigation number MA-06495-12-09. You state the department has provided or will provide some of the requested information to the requestor. You claim the submitted fact finding record is excepted from disclosure under section 552.134 of the Government Code. We have considered the exception 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 [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 552.134 is explicitly made subject to section 552.029, which provides in relevant 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:

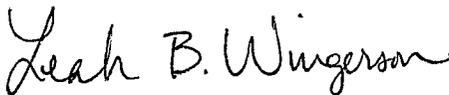
(8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

Id. § 552.029(8). You seek to withhold the submitted information in its entirety under section 552.134. The submitted information consists of a fact finding document pertaining to alleged misconduct by a correction officer involving a use of force incident. This disciplinary information does not constitute information about an inmate for purposes of section 552.134, and may not be withheld on that basis. The submitted information includes an inmate's name, which is generally excepted from disclosure under section 552.134. Basic information regarding a use of force incident, however, is subject to required disclosure under section 552.029(8) of the Government Code. Basic information includes, among other things, names of inmates directly involved in the incident. Therefore, the inmate's name in the submitted document is subject to release under section 552.029(8), and may not be withheld under section 552.134. Consequently, no part of the submitted fact finding document may be withheld under section 552.134 of the Government Code. As you have not claimed any other exceptions to disclosure, the submitted information 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, 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Mr. James Mu - Page 3

Ref: ID# 379433

Enc. Submitted documents

c: Requestor
(w/o enclosures)