



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 25, 2010

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

OR2010-09364

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# 384324.

The Texas Department of Criminal Justice (the "department") received a request for five employees' disciplinary records. You state that the department has released or will release some of the responsive information. 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.

Section 552.134 of the Government Code provides in relevant part:

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the [department] 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). Section 552.134 is explicitly made subject to section 552.029. Section 552.029 states 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.

Id. § 552.029(8). Some of the submitted documents pertain to incidents involving the use of force against inmates. Under section 552.029, basic information regarding the use of force is subject to required disclosure. As such, the department must release basic information regarding the use of force incidents pursuant to section 552.029(8). 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. The department must withhold the remaining information pertaining to these incidents under section 552.134 of the Government Code. We note the remaining submitted information consists of employee disciplinary records, which include inmate-identifying information. We find the inmates' identities in these disciplinary records are subject to section 552.134. We also find the exceptions in section 552.029 do not apply to this information. Accordingly, the department must withhold the inmate-identifying information we have marked in the disciplinary records under section 552.134 of the Government Code. The remaining information in these records may not be withheld under section 552.134.

We note some of the remaining information is confidential under section 552.117 of the Government Code.¹ 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 employees of the department or the predecessor in function to the department or any division of the department, regardless of whether the current or former employee complies with section 552.1175. *Id.* § 552.117(a)(3). Therefore, the department must withhold the social security numbers we have marked pursuant to section 552.117(a)(3) of the Government Code.

In summary, with the exception of basic information which must be released pursuant to section 552.029 of the Government Code, the department must withhold the information pertaining to the use of force incidents under section 552.134 of the Government Code. The

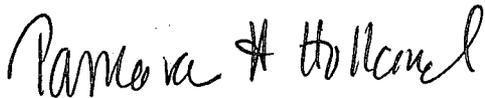
¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

department must also withhold the inmate-identifying information we have marked in the employees' disciplinary records under section 552.134 of the Government Code. The department must also withhold the social security numbers we have marked under section 552.117(a)(3) of the Government Code. The remaining 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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 384324

Enc. Submitted documents

c: Requestor
(w/o enclosures)