



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 12, 2010

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

OR2010-10264

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# 386231 (OIG ORR File # OR-2010-00093).

The Texas Department of Criminal Justice (the "department") received a request for 1) the clothing, apparel, footwear, equipment, or other gear issued to security staff members at the Ferguson Unit in 2009; 2) the type of clothing, apparel, footwear equipment, or other gear recommended or required for security staff members at the Ferguson Unit while on duty; 3) specified policies, procedures, or recommendations; 4) the current employment status of named security staff members; and 5) information pertaining to a specified investigation. You state that you have released some information to the requestor with certain addresses, telephone numbers, social security numbers, and personal family information withheld pursuant to sections 552.117, 552.1175, and 552.147(b) of the Government Code, as well as the previous determination issued by this office in Open Records Letter No. 2005-01067 (2005).¹ You claim that the submitted information in Exhibit C is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have only submitted information responsive to the request for information pertaining to the specified investigation. Thus, to the extent any information

¹We note Open Records Letter No. 2005-01067 serves as a previous determination that the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former employees of the department, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, are excepted from disclosure under section 552.117(a)(3) of the Government Code. Further, section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

responsive to the other categories of information requested existed and was maintained by the department on the date the department received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You raise section 552.134 of the Government Code for Exhibit C. Section 552.134 of the Government Code encompasses information relating to inmates of the department and states:

[e]xcept 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 552.029 of the Government Code provides, however, that:

[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). Thus, the legislature explicitly made section 552.134 subject to section 552.029.

You state Exhibit C pertains to a department inmate and is therefore subject to section 552.134. Upon review, we find section 552.134 is generally applicable to Exhibit C. We note, however, that the information in question is related to an incident involving the use of force. As you acknowledge, basic information about this incident is subject to disclosure under section 552.029(8). Basic information under section 552.029(8) includes the time and place of the incident, the names of inmates and of department employees who were involved, a brief narrative of the incident, a brief description of any injuries sustained by anyone involved, and information regarding any criminal charges or disciplinary actions that were filed as a result of the incident. Thus, with the exception of the basic information, which you state will be released, the department must withhold Exhibit C under section 552.134.²

²As our ruling under section 552.134 of the Government Code is dispositive, we do 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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 386231

Enc: Submitted documents

c: Requestor
(w/o enclosures)