



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 30, 2010

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

OR2010-11482

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# 388655.

The Texas Department of Criminal Justice (the "department") received a request for seven categories of information used to determine the gang affiliation of a named inmate and "a copy of all gang tattoos within the prison system." You claim the requested information is excepted from disclosure under sections 552.108 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, a portion of which consists of a representative sample.¹

Section 552.134 of the Government Code relates to information about inmates and former inmates of the department. This exception 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:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

[n]otwithstanding [s]ection . . . 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). Upon review, we agree the requested information is generally subject to section 552.134. We note, however, a portion of the submitted information pertains to an incident 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 incident 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 requested information under section 552.134 of the Government Code.²

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

²As our ruling is dispositive, we need not address your remaining argument against disclosure for this information, except to note basic information may not generally be withheld under section 552.108. *See* Gov't Code § 552.108(c).

Ref: ID# 388655

Enc. Submitted documents

c: Requestor
(w/o enclosures)