



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 10, 2010

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

OR2010-17086

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# 399632.

The Department of Criminal Justice (the “department”) received a request for information related to a named department employee. You state the department has made or will make the responsive information not submitted to the office available to the requestor. You claim 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 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:

Notwithstanding Section 508.313 or 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). The submitted information consists of a use of force inquiry and another investigation into the named department employee's conduct on the job. We find these records pertain to investigations of the named employee's conduct, and, therefore, are not "about an inmate" for purposes of section 552.134, and thus may not be withheld in their entirety under section 552.134. The submitted records, however, include inmate-identifying information. This information is generally subject to section 552.134. However, basic information regarding an incident involving the use of force is subject to required disclosure pursuant to section 552.029. Basic information includes the time and place of the incident, the names of inmates and 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. Therefore, we conclude the identity of the inmate at issue in the submitted use of force inquiry must be released pursuant to section 552.029 and no portion of this document may be withheld under section 552.134. We find section 552.029 is not applicable to the remaining inmate-identifying information. Consequently, the department must withhold the portions of the remaining information we have marked under section 552.134 of the Government Code. As you raise no other exceptions to disclosure, the remaining submitted information must be released.<sup>1</sup>

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

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<sup>1</sup>We note the remaining information contains a portion of the named employee's social security number. Open Records Letter No. 2005-1067 authorizes the department to withhold the present and former addresses and telephone numbers, social security numbers, and family member information of its current and 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 Gov't Code § 552.301(a)).

responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](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,

A handwritten signature in black ink, appearing to read 'Bob Davis', with a long, sweeping flourish extending to the right.

Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/tp

Ref: ID# 399632

Enc. Submitted documents

c: Requestor  
(w/o enclosures)