



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 22, 2011

Ms. Charlotte A. Towe
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2011-10508

Dear Ms. Towe:

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# 424587.

The Texas Department of Criminal Justice (the "department") received a request for the disciplinary records of twelve named officers from a specified time period. You state some information has been released to the requestor. You claim the submitted information is excepted from disclosure under section 552.134 of the Government Code. We have considered the claimed exception 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, 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 an Offender Protection Investigation and disciplinary records of department employees. Upon review, we agree portions of this information pertain to inmates confined in a facility operated by the department. We note, however, that some of the employee disciplinary records relate to an incident involving the use of force. Basic information regarding a use-of-force incident is subject to required disclosure under section 552.029(8). 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. The portions of the use-of-force disciplinary records that pertain to an inmate consist only of the name and department identification number of the inmate involved in the incident. Thus, this information is basic information subject to required disclosure under section 552.029 of the Government Code and therefore may not be withheld under section 552.134. *See id.* Further, we note the remaining information in the use-of-force disciplinary records pertains solely to correctional officers and does not reference department inmates. Accordingly, we conclude no portion of the disciplinary records related to the use-of-force incident may be withheld under section 552.134 of the Government Code. However, the department must withhold the Offender Protection Investigation and the information we have marked in the remaining employee disciplinary record under section 552.134.

We note portions of the remaining information are subject to section 552.117 of the Government Code.¹ Section 552.117(a)(3) of the Government Code excepts from disclosure the home address, home telephone number, emergency contact information, social security number, and family member information of a current or former employee of the department or any division of the department, regardless of whether the current or former employee complies with section 552.1175 of the Government Code. *See* Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)). Thus, the department must withhold the employees' social security numbers we have marked under section 552.117(a)(3) of the Government Code.

In summary, the department must withhold the information we have marked under sections 552.134 and 552.117 of the Government Code. The remaining information must be released to the requestor.

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

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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/bs

Ref: ID # 424587

Enc. Submitted documents

c: Requestor
(w/o enclosures)

