



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 20, 2011

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

OR2011-15394

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# 433676 (OIG 2011-00171).

The Office of the Inspector General of the Texas Department of Criminal Justice (the "department") received a request for files pertaining to the requestor. You state the department does not maintain information responsive to some of the requested files.¹ You state you have released some information to the requestor with certain addresses, telephone numbers, social security numbers, and personal family information redacted pursuant to sections 552.117 and 552.147(b) of the Government Code and the previous determination issued to the department in Open Records Letter No. 2005-01067 (2005).² You claim that

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We 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

the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.134 of the Government Code. We have considered the exceptions 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 records involving uses of force, an alleged crime involving an inmate, and an 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 incidents involving uses of force and an alleged crime involving an inmate are 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 inmates at issue in the use of force and alleged crime records must be released pursuant to section 552.029, and no portion of these documents may be withheld under section 552.134.

without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147 (b).

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.³ As you raise no other exceptions to disclosure for the remaining information, this 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 433676

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address the remaining arguments against disclosure.