



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

July 6, 2012

Ms. Patricia Fleming  
Assistant General Counsel  
TDCJ - Office of the General Counsel  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2012-10390

Dear Ms. Fleming:

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# 458172.

The Texas Department of Criminal Justice (the "department") received a request for the recording of a specified phone call. You claim that 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note the requestor excludes a specified call that was made prior to the requested call from his request. Accordingly, such information is not responsive to the request. This decision does not address the public availability of non-responsive information and such information need not be released in response to the present request.

Section 552.134 of the Government Code relates to information about 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). You assert the information at issue consists of information about an inmate confined in a facility operated by the department. Upon review, we agree that the submitted information is subject to section 552.134. We find that the exceptions in section 552.029 are not applicable in this instance. We note the requestor argues that he has a special right of access to the submitted information under section 552.023 of the Government Code because he was a party to the phone call that is the subject of the instant request. Section 552.023 of the Government Code gives a person or that person's authorized representative a "special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." *Id.* § 552.023. However, section 552.134 not only protects an inmate's privacy interest, but also protects the interests of the governmental body. As such, the requestor does not have a special right of access to the submitted information under section 552.023. *See id.* § 552.023(b) (governmental body may assert provisions of Act or other law that are not intended to protect person's privacy interests to withhold information to which requestor may otherwise have a special right of access). Therefore, the department must withhold the submitted information under section 552.134 of the Government Code.

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](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,



Jeffrey W. Giles  
Assistant Attorney General  
Open Records Division

JWG/dls

Ref: ID# 458172

Enc. Submitted documents

c: Requestor  
(w/o enclosures)