



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 16, 2012

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

OR2012-10961

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# 458914.

The Texas Department of Criminal Justice (the “department”) received a request for six categories of information pertaining to the Joe F. Gurney Transfer Facility (the “facility”) regarding the temperature, heat, or heat index from May 1, 2011 to October 1, 2011 including, any related internal memorandums and instructions provided to the staff, policies and procedures in areas where inmates live or work, and documents related to inmate grievances. You state some information has been made or will be made available to the requestor. You claim that the remaining requested information is excepted from disclosure under section 552.134 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹ We have also considered comments received from the requestor. *See* Gov’t Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹We assume that 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.

Section 552.134 of the Government Code relates to information about inmates of the department. Section 552.134 provides in relevant part:

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the Texas Department of Criminal Justice 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.

Id. § 552.134(a). Upon review, we find the submitted offender grievances, which we have marked, are subject to section 552.134 of the Government Code. The requestor states basic information contained in the submitted grievances should be released pursuant to section 552.029(8) of the Government Code. Section 552.029(8) provides:

[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). However, because none of the information at issue pertains to the death of an inmate in custody, an incident involving force, or an alleged crime involving an inmate, we find section 552.029(8) does not apply in this instance. *See id.* Accordingly, the department must withhold the submitted offender grievances under section 552.134 of the Government Code. However, we find the remaining information relates to safety training for both employees of the department and inmates, and therefore does not constitute information “about an inmate” for the purposes of section 552.134. The safety training materials, however, include inmate-identifying information. Further, we find section 552.029 is not applicable to the inmate-identifying information. Consequently, the department must withhold the inmate-identifying information we have marked in the safety training materials under section 552.134. The remaining safety training materials may not be withheld under section 552.134 and 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,

A handwritten signature in cursive script that reads "Kathleen J. Santos".

Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/eb

Ref: ID# 458914

Enc. Submitted documents

c: Requestor
(w/o enclosures)