



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 29, 2003

Mr. James L. Hall
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR2003-6097

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 186803.

The Texas Department of Criminal Justice (the "TDCJ") received a request for rosters of "offenders with Commercial Drivers Licenses who are eligible...for driving assignments for TDCJ (agricultural or otherwise)." The specific items requested are:

- (1) Name and offender number;
- (2) Commercial driver's license number, class, or restriction;
- (3) Any classification, characterization, or notation for each offender, indicating what types of driving can or cannot be handled as part of a work assignment;
- (4) Date the person became eligible for the CDL work assignments;
- (5) Name of the unit where currently incarcerated; and
- (6) The conviction offense or county of conviction.

You argue that the information is excepted from disclosure under sections 552.108 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

We first address your arguments under section 552.134. Section 552.134(a) of the Government Code states in pertinent 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.

Gov't Code § 552.134(a). An exception to section 552.134 is section 552.029 of the Government Code. Section 552.029 allows disclosure of the following items, among others:

- (1) the inmate's name and identification number; and
- (2) the inmate's assigned unit.

See Gov't Code § 552.029. You explain that there is no roster of TDCJ inmates responsive to the request, but assert that the inmate driver information can be found on the Job Turnout Sheets generated daily by each participating TDCJ unit. You further state that the Job Turnout Sheets contain, among other items, housing information, and information concerning inmate work restrictions. We agree most of the information is confidential under section 552.134 of the Government Code. However, the names and identification numbers of TDCJ inmates, and the inmates' assigned units are subject to section 552.029, and therefore not confidential under section 552.134.

Next, we consider your section 552.108 claim for the information that is not confidential under section 552.134. Section 552.108 provides in pertinent part:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

¹ We 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.

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

In general, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In this case, you argue that release of the information could compromise prison safety and security because the information details the movement of certain inmates. Specifically, you assert that the requested information reveals "the particular area of the prison to which the inmate is assigned each day and provide movement information for that day." You further argue that access to such information would allow someone to pinpoint an inmate's location, thereby endangering the prisoners and overall security of the facility. After considering your arguments and the sample submitted information, we find that the TDCJ has not adequately explained how release of the information subject to section 552.029, *i.e.*, inmate names, identification numbers and unit assignments, would interfere with law enforcement. The TDCJ does not address any of the information subject to section 552.029 in their section 552.108(b)(1) arguments. Therefore, the TDCJ may not withhold the information under section 552.108.

In summary, the TDCJ must release inmate names, inmate identification numbers, and the general unit where the inmate is housed. The TDCJ must withhold the remainder of the requested information according to section 552.134 of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Heather R. Rutland
Assistant Attorney General
Open Records Division

HRR/sdk

Ref: ID# 186803

Enc: Submitted documents

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