



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 30, 2006

Mr. James A Frazier III  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
P. O. Box 4004  
Huntsville, Texas 77342-4004

Mr. John C. West  
General Counsel  
Office of the Inspector General  
Texas Department of Criminal Justice  
P. O. Box 13084  
Austin, Texas 78711

OR2006-00971

Dear Mr. Frazier and 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# 241387.

The Texas Department of Criminal Justice (the "department") received a request for 1) all records, including a videotape, related to a specific stabbing incident, 2) the policies and procedures of the Hughes Unit regarding the separation of violent and non-violent offenders, 3) basic information regarding a named inmate, and 4) basic information regarding a former inmate. You claim that some of the responsive information is excepted from disclosure under sections 552.108, 552.117, 552.1175, 552.134, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by 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 that the department has not submitted for our review information responsive to the request for policies and procedures of the Hughes Unit regarding the separation of violent and non-violent offenders. As you have not submitted this requested information for our review, we assume you have released it to the extent that it existed at the time this request was received. If you have not released any such records, you must release them to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302.; *see also* Open

Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

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.

Gov't Code § 552.134(a). Section 552.134 is explicitly made subject to section 552.029. Section 552.029 states the following:

Notwithstanding . . . Section 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the Texas Department of Criminal Justice 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.

Gov't Code § 552.029(8). Under section 552.029, basic information regarding an alleged crime involving an inmate is subject to required disclosure. Basic information includes the time and place of the incident, names of inmates and department officials directly involved, a brief narrative of the incident, a brief description of any injuries sustained, and information regarding criminal charges or disciplinary actions filed as a result of the incident. *See also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information under predecessor to section 552.108). The requestor acknowledges receiving basic information regarding Items 1, 3, and 4. The submitted records and videotape regarding Item 1 are not subject to release under section 552.029, and thus are confidential under section 552.134. Accordingly, the department must withhold the submitted information under section 552.134. As our ruling on this issue is dispositive, we need not address your remaining arguments.

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).

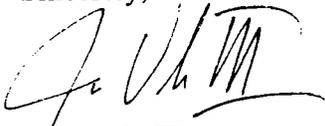
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



José Vela III  
Assistant Attorney General  
Open Records Division

JV/krl

Ref: ID# 241387

Enc. Submitted documents

c: Scott Medlock  
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(w/o enclosures)