



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 5, 2009

Mr. James Mu
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2009-01528

Dear Mr. Mu:

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# 333058.

The Texas Department of Criminal Justice (the "department") received a request for all records pertaining to two named individuals. You claim that the department need not comply with a portion of the request pursuant to section 552.028 of the Government Code. You state that you have released or will release a portion of the remaining information. You claim that the remaining information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.028 of the Government Code provides in relevant part:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028(a)-(b). In regards to the request for information pertaining to inmate number 1238037, you state that the requestor is acting as the agent of an individual confined in a correctional facility, as defined by section 552.028(c). We asked you to provide this office with further information establishing the requestor as the agent of an individual confined in a correctional facility. *See* Gov't Code § 552.303(c). After reviewing your additional arguments and the request at issue, we agree that, pursuant to section 552.028(a)(2) of the Government Code, the department is not required to accept or comply with the portion of the request pertaining to inmate number 1238037.

Next, we address your claim under Section 552.134 of the Government Code regarding inmate number 1275569. Section 552.134 is applicable to information relating to inmates and former inmates of the department and states that

[e]xcept 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). Based on your representations and our review, we find that the submitted information consists of information about an inmate confined in a facility operated by the department. You also assert, and we agree, that section 552.029 does not apply to any of the submitted information. Therefore, the submitted information regarding inmate number 1275569 is excepted from disclosure under section 552.134 of the Government Code and must be withheld.

In summary, (1) pursuant to section 552.028(a)(2) of the Government Code, the department need not comply with the portion of the request pertaining to inmate number 1238037; and (2) the department must withhold the submitted information pertaining to inmate number 1275569 pursuant 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 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 at (512) 475-2497.

Sincerely,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 333058

Enc. Submitted documents

c: Requestor
(w/o enclosures)