



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 29, 2009

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

OR2009-05688

Dear 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# 341843 (OIG ORR # OR-2009-00045).

The Texas Department of Criminal Justice ("TDCJ") received a request for information related to a specified TDCJ inmate. You state that TDCJ will release basic information from the responsive case files. You also state that TDCJ will withhold responsive shift rosters under section 552.108(b)(1) of the Government Code pursuant to a previous determination issued to TDCJ by this office in Open Records Letter No. 2004-6370 (2004). *See* Open Records Decision No. 673 at 7-8 (2001) (previous determinations). You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.117, 552.1175, 552.130, 552.134, 552.136, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by an authorized representative of the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

You assert that the submitted information, other than the basic information TDCJ has released, is excepted from disclosure under section 552.134 of the Government Code. Section 552.134 relates to TDCJ inmates and provides in relevant part:

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Additionally, in Open Records Letter No. 2005-01067 (2005), this office issued a previous determination that authorizes TDCJ to withhold the social security numbers of current and former TDCJ employees under section 552.117(a) without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

(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.

Id. § 552.134(a). You state, and the submitted information reflects, that the person named in the request is a current or former inmate who is or was confined in a facility operated by TDCJ.² The submitted information is not “statistical or other aggregated information” and you inform us that the involved person was not an inmate sentenced to death. Therefore, this information is not subject to either of the exceptions listed in subsection (b). *See id.* § 552.134(b). Thus, we agree that section 552.134 is generally applicable to the submitted information. However, section 552.134 is explicitly subject to section 552.029, which provides:

Notwithstanding Section 508.313 or 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 [the Act]:

- (1) the inmate’s name, identification number, age, birthplace, department photograph, physical description, or general state of health or the nature of an injury to or critical illness suffered by the inmate;
- (2) the inmate’s assigned unit or the date on which the unit received the inmate, unless disclosure of the information would violate federal law relating to the confidentiality of substance abuse treatment;
- (3) the offense for which the inmate was convicted or the judgment and sentence for that offense;
- (4) the county and court in which the inmate was convicted;
- (5) the inmate’s earliest or latest possible release dates;
- (6) the inmate’s parole date or earliest possible parole date;

²We note that this office has repeatedly and consistently ruled that section 552.134 is applicable not only to current TDCJ inmates, but also to former TDCJ inmates. *See, e.g.*, Open Records Letter Nos. 2008-17171 (2008), 2008-16838 (2008), 2008-16612 (2008), 2008-13870 (2008).

(7) any prior confinement of the inmate by the Texas Department of Criminal Justice or its predecessor; or

(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. Because the information submitted by TDCJ relates to alleged crimes involving the inmate named in the request, TDCJ must release basic information regarding these alleged crimes. The basic information that must be released includes the time and place of the incident, the names of inmates and of any department employees who were involved, a brief narrative of the incident, and information regarding any criminal charges or disciplinary actions that were filed as a result of the incident. TDCJ states that it has released such information. We note that the released information also contains the inmate's name, identification number, age, and department photograph, and that the submitted information does not contain any other information subject to section 552.029. We therefore conclude that, with the exception of the information it has already released, TDCJ must withhold the submitted information pursuant to section 552.134 of the Government Code.³

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,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/cc

³As our ruling is dispositive, we need not address TDCJ's remaining arguments against disclosure of the information at issue.

Ref: ID# 341843

Enc. Submitted documents

cc: Requestor
(w/o enclosures)