



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 2, 2009

Mr. Erik Brown  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2009-07507

Dear Mr. Brown:

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# 344831.

The Texas Department of Criminal Justice (the "department") received a request for visitation and commissary records related to a named inmate from a specified time period. You state that the department does not hold responsive visitation records.<sup>1</sup> You claim that the submitted 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 552.134 of the Government Code relates to information about inmates of the department and 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

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<sup>1</sup>We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

an inmate who is confined in a facility operated by or under a contract with the department.

Gov't Code § 552.134(a). The submitted information consists of information about a former inmate who was confined in a facility operated by the department. We find that the exceptions in section 552.029 are not applicable. We note the requestor is the husband of the former inmate. Although section 552.023 of the Government Code gives a person a "special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests," we note that section 552.134 does not protect only the inmate's privacy interest. *See* Gov't Code § 552.023. Therefore, section 552.023 does not provide the requestor a special right of access to the requested information. Accordingly, you must withhold the submitted information under section 552.134(a) of the Government Code. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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](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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/jb

Ref: ID# 344831

Enc. Submitted documents

c: Requestor  
(w/o enclosures)