



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 29, 2009

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

OR2009-15371

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# 359907.

The Texas Department of Criminal Justice (the "department") received a request for contact log entries, disciplinary action, evaluations, investigations concerning the requestor, and phone records from a specific time period. You claim that the submitted information is excepted from disclosure under section 552.134 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted contact log entries or phone records. To the extent any information responsive to this portion of the request existed on the date the department received the request, we assume the department has released it. If the department has not released any such information, it must do so at this time. *See Gov't Code §§ 552.301(a), 302; see also Open Records Decision No. 664 (2000)* (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.134(a) of the Government Code relates to inmates of the department and provides:

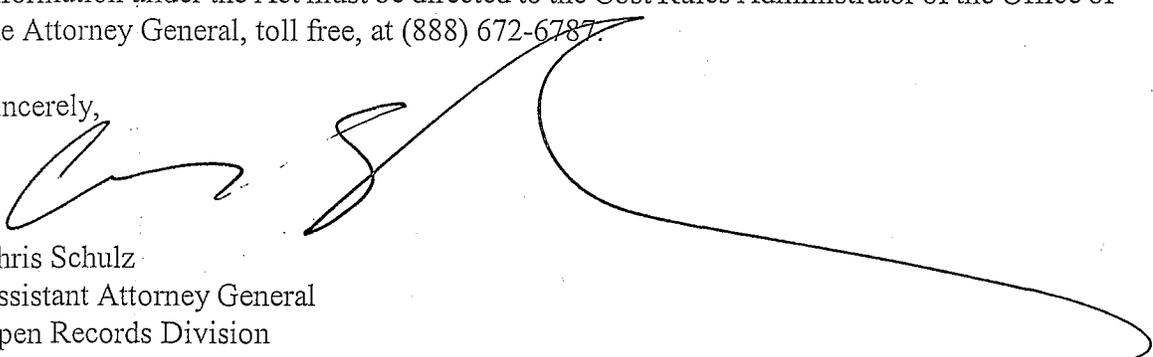
Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the [department] is excepted from [required public disclosure] if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Gov't Code § 552.134(a). The submitted information concerns an investigation related to a former department employee allowing an inmate to use a cellular telephone. Thus, we agree portions of the submitted information are subject to section 552.134. Further, none of the information at issue is subject to release under section 552.029 of the Government Code. Accordingly, the department must withhold the information we have marked pursuant to section 552.134 of the Government Code. The remaining information, however, consists of information pertaining only to a former department employee. Thus, you have failed to demonstrate how this information is about an inmate. Accordingly, no portion of the remaining information may be withheld under section 552.134. As you raise no further exceptions against disclosure, the remaining information must be released.¹

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, toll free, at (888) 672-6787.

Sincerely,



Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 359907

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

¹ We note that the information being released contains confidential information to which the requestor has a right of access. See Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself). Therefore, if the department receives another request for this same information from a different requestor, then the department should again seek a decision from this office.