



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2011

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

OR2011-16955

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# 436880.

The Texas Department of Criminal Justice (the "department") received a request for the "Operational Review Sergeant's Report(s) pertaining to each principal/unit/campus in the Gulf Coast Region" for the 2009-10 and 2010-11 school years. You state you will release some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.108 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 provides, in relevant part:

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the [department] 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). The information for which you assert section 552.134 pertains to "a review of the Education functional area" in a department facility. The review report contains inmate identifying information, which we have marked, that the department must withhold under section 552.134. However the remaining information does not constitute

“information about an inmate” for purposes of section 552.134, and the department may not withhold the remaining information on that basis.

You claim the information in Items 1 and 2 are excepted from disclosure under section 552.108(b)(1) of the Government Code. Section 552.108(b)(1) of the Government Code excepts from disclosure “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if . . . release of the internal record or notation would interfere with law enforcement or prosecution[.]” Gov’t Code § 552.108(b)(1); *see City of Fort Worth v. Cornyn*, 86 S.W.3d at 327 (Gov’t Code § 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). The statutory predecessor to section 552.108(b)(1) protected information that would reveal law enforcement techniques. *See, e.g.*, Open Records Decision Nos. 531 (1989) (detailed use of force guidelines), 456 (1987) (information regarding location of off-duty police officers), 413 (1984) (sketch showing security measures to be used at next execution). The statutory predecessor to section 552.108(b)(1) was not applicable to generally known policies and procedures. *See e.g.* Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (1980) (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You state the submitted records in Items 1 and 2 contain information that, if released, would cause “an undermining of security on the unit that will jeopardize the safety of inmates, correctional officers[,] and the general public.” You contend the information in question could be used in the planning and execution of a crime or in facilitating an escape. Based on your representations, we have marked information the department may withhold under section 552.108(b)(1) of the Government Code. We find you have not demonstrated release of any of the remaining information at issue would interfere with law enforcement or crime prevention. We, therefore, conclude the department may not withhold any of the remaining information under section 552.108(b)(1) of the Government Code.

In summary, the department must withhold the information we have marked under section 552.134 of the Government Code. The department may withhold the information we have marked in Items 1 and 2 under section 552.108(b)(1) of the Government Code. The remaining information must be released.

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,

A handwritten signature in cursive script that reads "Sean Opperman".

Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 436880

Enc. Submitted documents

c: Requestor
(w/o enclosures)