



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2014

Mr. John C. West
General Counsel
Office of the Inspector General
Texas Department of Criminal Justice
4616 Howard Lane, Suite 250
Austin, Texas 78728

OR2014-14270

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# 532773.

The Texas Department of Criminal Justice's Office of the Inspector General (the "department") received a request for all information pertaining to a specified individual. We understand the department has destroyed some information responsive to this request in accordance with the department's records retention schedule.¹ You claim the remaining responsive information is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, 552.1175, 552.134, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹We note 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).

You assert the submitted information is excepted from release under section 552.134 of the Government Code, which encompasses information relating to inmates of the department and states, 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). As you acknowledge, section 552.029 of the Government Code provides:

Notwithstanding [s]ection . . . 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the [department] is subject to required disclosure under Section 552.021:

...

(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.

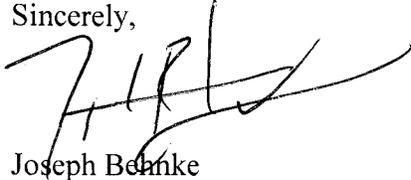
Id. § 552.029(8). Thus, the legislature explicitly made section 552.134 subject to section 552.029. Upon review, we find section 552.134 is applicable to the submitted information. However, the information at issue includes incidents involving the use of force and an alleged crime involving an inmate. Thus, the department must release basic information concerning the incidents involving the use of force and the alleged crime. Basic information includes the time and place of the incident, the names of inmates and of department employees who were involved, a brief narrative of the incident, a brief description of any injuries sustained by anyone involved, and information regarding any criminal charges or disciplinary actions that were filed as a result of the incident. Therefore, except for basic information under section 552.029(8) of the Government Code, which must be released, the department must withhold the remaining responsive information under section 552.134 of the Government Code.²

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.

²Because you state you do not seek to withhold the basic information that is responsive to this request, our ruling is dispositive and we need not address your remaining arguments against disclosure.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Benke", written over a horizontal line.

Joseph Benke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 532773

Enc. Submitted documents

c: Requestor
(w/o enclosures)