



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2014

Ms. Robin L. Whitney
Assistant General Counsel
Office of General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2014-15215

Dear Ms. Whitney:

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# 534872.

The Texas Department of Criminal Justice (the "department") received a request for several categories of information pertaining to a disciplinary case and grievance involving a named inmate in a department facility. You assert the department need not comply with the request to release the requested information pursuant to section 552.028 of the Government Code. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.108 and 552.134 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note you assert the department need not comply with the request under section 552.028 of the Government Code. Section 552.028 provides, in relevant part:

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under [the Act].

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

Gov't Code § 552.028(a)-(b). You state the requestor is the grandmother of an incarcerated individual. However, the requestor does not indicate, and you have not otherwise established, she is requesting information on behalf of the incarcerated individual. Therefore, we find you have failed to demonstrate the request for information was submitted by an agent of an individual who is imprisoned or confined in a correctional facility. Thus, section 552.028 is not applicable in this instance. Accordingly, we will address your arguments against disclosure of the submitted information.

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

(a) 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.

Id. § 552.134(a). You state a portion of the submitted information constitutes information about an inmate confined in a facility operated by the department. You state section 552.029 of the Government Code does not apply to the information at issue. Upon review, we find the information you have marked is subject to section 552.134 of the Government Code and must be withheld on this basis.

Section 552.108(b)(1) of the Government Code excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. *Id.* § 552.108(b)(1); *see also* Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). A governmental body claiming section 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706. Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 at 327 (Tex. App.—Austin 2002, no pet.). This office has concluded section 552.108(b)(1) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.*, Open Records Decision Nos. 531 (release of detailed use of force guidelines would unduly interfere with

law enforcement), 252 (1980) (section 552.108 of the Government Code is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Section 552.108(b)(1) is not applicable, however, to generally known policies and procedures. *See, e.g.*, ORDs 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force not protected), 252 at 3 (governmental body failed to indicate why investigative procedures and techniques requested were any different from those commonly known).

You state the submitted information contains the Standard Offense Pleading Handbook, which is a staff manual created by the Criminal Institution Division (“CID”) for the use of CID staff members on a prison unit. You state the purpose of the Handbook is “to establish standardized pleadings to be used for charging offenders who have committed disciplinary offenses so only the required facts and necessary elements of the offense are routinely include in the Disciplinary Report.” Upon review, we find you have not demonstrated how release of any of the submitted information would interfere with law enforcement or crime prevention. Accordingly, the department may not withhold any of the submitted information under section 552.108(b)(1).

In summary, the department must withhold the information you have marked under section 552.134 of the Government Code. The department must release the remaining submitted information.

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.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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/ac

Ref: ID# 534872

Enc. Submitted documents

c: Requestor
(w/o enclosures)