



January 12, 2015

Ms. Robin L. Whitney
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2015-00508

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# 549700.

The Texas Department of Criminal Justice (the "department") received a request for the use of force video tape and the security tapes from a specified time period and relating to the requestor's son. We understand some of the requested information does not exist.¹ You claim the submitted information is excepted from disclosure under section 552.134 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor only seeks the use of force video tape and the specified security tapes pertaining to the requestor's son. Accordingly, the submitted documentation we marked is not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release this information in response to this request.

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We note the department did not comply with section 552.301 of the Government Code in submitting the security tape video at issue. *See* Gov't Code § 552.301(b), (e). Nonetheless, because section 552.134 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

Section 552.134(a) of the Government Code relates to inmates and former 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). You state the submitted information pertains to an inmate confined in a facility operated by the department. Additionally, you state, and we agree, section 552.029 of the Government Code does not apply to the submitted information. Thus, we conclude the department must withhold the submitted information under section 552.134.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 549700

Enc. Submitted documents

c: Requestor
(w/o enclosures)