



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 24, 2017

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

OR2017-06096

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# 650207.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a specified investigation involving a named inmate.¹ The department claims the submitted information is excepted from disclosure under section 552.134 of the Government Code.² We have considered the exception the department claims and reviewed the submitted representative sample of information.³

¹The department states it sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We note, and the department acknowledges, the department did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). 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.

³We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Section 552.134 of the Government Code relates to information about inmates of the department. This exception provides, in relevant part:

(a) Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the Texas Department of Criminal Justice 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). Section 552.029 of the Government Code provides, in part:

Notwithstanding Section . . . 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, section 552.134 is explicitly made subject to section 552.029. The department states the submitted information pertains to a department inmate who is confined in a facility operated by the department. Upon review, we agree the submitted information is subject to section 552.134 of the Government Code. However, although the department asserts section 552.029 of the Government Code does not apply to the submitted information, we find the submitted information relates to an incident involving the use of force. Thus, the department must release basic information about the incident involving use of force pursuant to section 552.029. The basic information that must be released includes the time and place of the incident, the names of inmates and of department employees who were directly 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.⁴ Accordingly, except for basic information under section 552.029(8) of the Government Code, which must be released, the department must withhold the submitted information under section 552.134 of the Government Code.

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.

⁴We note basic information does not include the identities of witnesses.

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/eb

Ref: ID# 650207

Enc. Submitted documents

c: Requestor
(w/o enclosures)