



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 31, 2019

Mr. Sharbel Sfeir  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2019-02891

Dear Mr. Sfeir:

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# 748451 (OGC# ZT0182)

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.134(a) of the Government Code relates to inmates of the department and 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 [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). 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. You contend the submitted information falls within the scope of section 552.134. Upon review, we find the submitted information pertains to an inmate confined in a facility operated by the department and is subject to section 552.134. We note the submitted information contains information pertaining to an alleged crime involving an inmate. Therefore, the department must release basic information regarding the alleged crime pursuant to section 552.029(8). *See id.* For purposes of section 552.029(8), basic information includes the time and place of the incident, the names of inmates and 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. Accordingly, except for basic information under section 552.029(8) of the Government Code, the department must withhold the submitted information under section 52.134 of the Government Code.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses section 501.008 of the Government Code, which provides, in relevant part, the following:

(c) A report, investigation, or supporting document prepared by the department in response to an inmate grievance is considered to have been prepared in anticipation of litigation and is confidential, privileged, and not subject to discovery by the inmate in a claim arising out of the same operative facts as are alleged in the grievance.

*Id.* § 501.008(c). The department claims the basic information is confidential under section 501.008(c). However, we find the department has failed to demonstrate the basic information consists of a report, investigation, or supporting document prepared by the department for purposes of section 501.008(c). *See id.* Thus, the department may not

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against disclosure.

withhold any portion of the basic information under section 552.101 of the Government Code in conjunction with section 501.008(c) of the Government Code.

In summary, with the exception basic information, 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.

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](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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PS/mo

Ref: ID# 748451

Enc. Submitted documents

c: Requestor  
(w/o enclosures)