



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 27, 2019

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

OR2019-05506

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# 755291 (Ref. No. ZT0191).

The Texas Department of Criminal Justice (the "department") received a request for the death sentence commutation certificate pertaining to a named individual. You claim the submitted information is excepted from disclosure under section 552.134 of the Government Code. You also state you notified the Texas Board of Pardons and Paroles (the "board") and the Office of the Secretary of State (the "secretary's office") of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the board.¹ We have considered the submitted arguments and reviewed the submitted information.

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.*

¹As of the date of this letter, we have not received any comments from the secretary's office explaining why any portion of the submitted information should not be released to the requestor.

§ 552.101. This section encompasses section 508.313(a) of the Government Code, which provides:

All information obtained and maintained [by the department], including a victim protest letter or other correspondence, a victim impact statement, a list of inmates eligible for release on parole, and an arrest record of an inmate, is confidential and privileged if the information relates to:

- (1) an inmate of the institutional division [of the department] subject to release on parole, release to mandatory supervision, or executive clemency;
- (2) a releasee; or
- (3) a person directly identified in any proposed plan of release for an inmate.

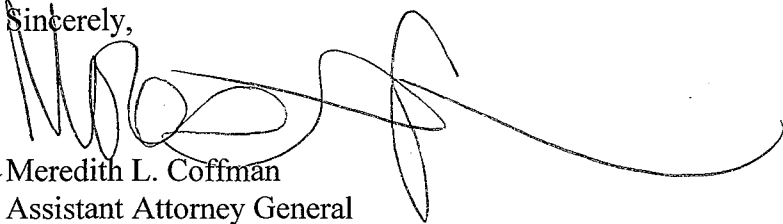
Id. § 508.313(a); *see id.* § 508.001(9) (“release” means a person released on parole or to mandatory supervision). The board informs us the submitted information is part of the board’s and department’s files and only exists as a result of the granting of executive clemency by the governor to the named inmate. Thus, the board asserts the submitted information consists of records of an inmate subject to executive clemency that are subject to section 508.313 of the Government Code. We understand the requestor is not an entity authorized to obtain the information at issue under section 508.313(c). *See id.* § 508.313(c). Further, there is no indication this information is made public under chapter 62 of the Code of Criminal Procedure or section 552.029 of the Government Code. *See id.* § 508.313(e), (f). Based on these representations and our review, we find the submitted information is subject to section 508.313 of the Government Code. Accordingly, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.²

The board requests this office a previous determination to the board regarding proclamations from the Office of the Governor maintained by the department and the board under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code. We decline to issue such a previous determination at this time. Accordingly, 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.

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

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 'Meredith L. Coffman', with a long, sweeping horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/som

Ref: ID# 755291

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)