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ATTORNEY GENERAL OF TEXAS

May 23, 2019

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

OR2019-13729

Dear Mr. Overton:

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# 767021 (TDCJ OGC# PP0103).

The Texas Department of Criminal Justice (the "department") received a request for eight categories of information pertaining to a named inmate. The department claims it need not comply with the request for information pursuant to section 552.028 of the Government Code. In the alternative, the department claims the submitted information is excepted from disclosure under sections 552.108 and 552.134 of the Government Code. We have considered the department's submitted arguments and reviewed the submitted representative sample of information.¹

Section 552.028 of the Government Code 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

¹We 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.

(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). As noted above, the individual named in the request is an inmate in a correctional facility. The department informs us the requestor is an approved visitor of the named inmate. Although the department asserts the requestor is acting on behalf of the named inmate, upon review, we find the department has failed to demonstrate the request for information was submitted by an agent of an individual who is imprisoned or confined in a correctional facility. Accordingly, section 552.028 of the Government Code is not applicable in this instance, and we will address the department's remaining arguments against disclosure of the submitted information.

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.

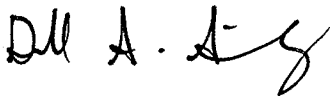
Id. § 552.029(8). Thus, section 552.134 is explicitly made subject to section 552.029. The department states the submitted information pertains to an inmate who is confined in a facility operated by the department. Upon review, we agree the submitted information is subject to section 552.134 of the Government Code. Although the department asserts section 552.029 of the Government Code does not apply to the submitted information, we find some of the submitted information pertains to crimes involving the named inmate. Thus, the department must release basic information about the crimes involving the named inmate

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 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, which must be released, the department must withhold the submitted information under section 552.134 of the Government Code.²

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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 767021

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address the department's remaining argument against disclosure of the submitted information, except to note basic information is generally not excepted from public disclosure under section 552.108 of the Government Code. Gov't Code § 552.108(c).