



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 29, 2019

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

OR2019-20748

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# 775385 (OGC#PP0121).

The Texas Department of Criminal Justice (the "department") received a request for four categories of information pertaining to certain offenders, including the IQ test scores of the offenders. 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 representative sample of information.¹

Section 552.134 of the Government Code encompasses information relating to inmates of the department and provides:

- (a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the [department] is excepted from the requirements of Section 552.021 if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

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.

(b) Subsection (a) does not apply to:

...
(2) information about an inmate sentenced to death.

Gov't Code § 552.134(a), (b)(2). Although some of the information pertains to an inmate who is now deceased, we note section 552.134(a) is applicable to information relating to deceased inmates. Further, while you inform us the inmates at issue were sentenced to death, you explain that death row inmates are not administered IQ tests and do not have IQ scores in their records, and that the only information responsive to the present request is maintained in inmate files that were created during previous incarcerations, and not in files created during their current incarceration on death row. Consequently, this information is about department inmates, but it is not "information about an inmate sentenced to death." Accordingly, the department must withhold the submitted information under section 552.134(a) 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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/mo

²As our ruling is dispositive, we need not consider your remaining argument against disclosure of this information.

Ref: ID# 775385

Enc. Submitted documents

c: Requestor
(w/o enclosures)