



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 20, 2019

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

OR2019-36218

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# 802869 (OGC# PP0162).

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a named parolee. You claim the submitted information is excepted from disclosure under section 552.101, 552.132, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 508.313(a) of the Government Code, which provides the following:

- (a) All information obtained and maintained, 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 We assume that 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 that those records contain substantially different types of information than that submitted to this office.

- (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) (“releasee” means a person released on parole or to mandatory supervision). The department states the submitted information consists of records of a releasee that are subject to section 508.313 of the Government Code. The department also states the requestor is not authorized to obtain this information 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). 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

Finally, the department asks this office to issue a previous determination permitting it to withhold information made confidential under section 508.313 of the Government Code without the necessity of requesting a ruling from our office under the Act. See Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). However, we decline to issue one at this time. Accordingly, this letter ruling is limited to the particular records 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 records or 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/be

² As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)