



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 13, 2020

Ms. Katherine Tanner  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2020-04642

Dear Ms. Tanner:

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# 811839 (OGC# PP0176).

The Texas Department of Criminal Justice (the "department") received a request for records pertaining to the arrest and incarceration of a named individual in 1987. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, 552.134, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<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." 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:

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<sup>1</sup> 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 information labeled as Section 2 of the submitted information consists of parole records 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 information labeled as Section 2 under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.

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 [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 state the remaining information, labeled as Section 1, pertains to an inmate who is confined in a facility operated by the department. Upon review, we agree the information at issue is subject to section 552.134 of the Government Code. Although you assert section 552.029 of the Government Code does not apply to the information at issue, we find the information at issue pertains to a crime involving the named inmate. Thus, the department must release basic information about the crime 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 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.<sup>2</sup> Accordingly, except for basic information under section 552.029(8) of the Government Code, the department must withhold the information labeled as Section 1 of the submitted information under section 552.134 of the Government Code.<sup>3</sup>

In summary, the department must withhold the information labeled as Section 2 under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code. Except for basic information under section 552.029(8) of the Government Code, which must be released, the department must withhold the information labeled as Section 1 of 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 <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/gw

Ref: ID# 811839

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup> We note basic information does not include the identities of witnesses.

<sup>3</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.