



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 18, 2020

Mr. Patrick Vollmer
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 13084 Capitol Station
Austin, Texas 78711-3084

OR2020-08510

Dear Mr. Vollmer:

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# 817312 (OGC# PP0185).

The Texas Department of Criminal Justice (the "department") received a request for all information related to a named department inmate. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Section 552.134 of the Government Code relates to inmates of the department and provides, in relevant part, as follows:

(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

¹ We note the department failed to comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nevertheless, as sections 552.101 and 552.134 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider whether these exceptions apply to the submitted information. *See id.* §§ 552.007, .302, .352.

² We 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.

inmate who is confined in a facility operated by or under a contract with the department.

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

...

(2) information about an inmate sentenced to death.

Gov't Code § 552.134(a), (b)(2). Section 552.134 is explicitly made subject to section 552.029, which provides, in relevant part, the following:

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). You state the submitted information constitutes information about an inmate confined in a facility operated by the department. While you inform us the named inmate was sentenced to death, you explain the submitted information concerns the inmate when he was previously incarcerated with the department for non-capital offenses. Consequently, this information is about a department inmate, but it is not “information about an inmate sentenced to death.” Upon review, because the information at issue was not created at a time when the inmate was sentenced to death and is not maintained in the inmate’s death row file, we find that section 552.134(a) of the Government Code is applicable to the information at issue. However, some of the submitted information pertains to an alleged crime involving the inmate. Thus, pursuant to section 552.029 the department must release basic information from this information. Basic information includes the time and place of the incident, names of inmates and department officials directly involved, a brief narrative of the incident, a brief description of any injuries sustained, and information regarding criminal charges or disciplinary actions filed as a result of the incident. With the exception of basic information related to the alleged crime involving the inmate, which must be released, the department must withhold the submitted information under section 552.134 of the Government Code.³

You also ask this office to issue a previous determination that would permit the department to withhold an inmate’s visitation log without the necessity of requesting a decision from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited

³ As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/jlbn

Ref: ID# 817312

Enc. Submitted documents

c: Requestor
(w/o enclosures)