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ATTORNEY GENERAL OF TEXAS

March 23, 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

OR2020-08896

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# 819167 (ORR# PP0187).

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a named inmate. The city claims either it is not required to comply with the request pursuant to section 552.028 of the Government Code or the submitted information is excepted from disclosure under sections 552.108 and 552.134 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Section 552.028(a) of the Government Code provides the following:

(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
- (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].

Gov't Code § 552.028(a), (c). The department states the requestor is an agent of an incarcerated individual. *See id.* § 552.028(c). However, we find the department has not

established the requestor is requesting information on behalf of the incarcerated individual at issue. Thus, 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, we conclude section 552.028 of the Government Code does not permit the department to decline to comply with this request.

Section 552.134(a) relates to inmates of the department and provides the following:

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 552.134 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). On review, we agree the submitted records constitute information about an inmate for purposes of section 552.134. However, the records contain information that concerns alleged crimes involving the inmate. Thus, the department must release basic information concerning the crimes. 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. The department must withhold the remaining information pursuant to section 552.134 of the Government Code.¹

Finally, the department asks this office to issue a previous determination permitting it to withhold certain types of information under section 552.134 of the Government Code without requesting a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). However, we decline to do so 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 any other circumstances.

¹ As our ruling is dispositive, we do not address the other argument of the department to withhold this information.

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

Ref: ID# 819167

Enc. Submitted documents

c: Requestor
(w/o enclosures)