



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 13, 2020

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

OR2020-10769

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# 821533 (ORR# OGC#JN0035).

The Texas Department of Criminal Justice (the "department") received a request for the requestor's polygraph test results from a specified time period.<sup>1</sup> The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

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 of the Government Code encompasses information protected by other statutes, such as section 508.313(a) of the Government Code, which provides in part:

- (a) All information obtained and maintained [by the department], including a victim protest letter or other correspondence, a victim impact statement, a

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<sup>1</sup> The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983). However, the department informs us it made a good faith effort to relate a request to information it holds. *See* Open Records Decision No. 561 at 8 (1990).

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) 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). The department argues the submitted information is confidential under section 508.313(a). The department states the submitted information consists of information related to a releasee. The department states the requestor is not an entity authorized to obtain the information at issue under section 508.313(c). *See id.* § 508.313(c). Further, the department informs us the information is not made public under section 552.029 of the Government Code and does not consist of information relating to a sex offender that is authorized for release under Chapter 62, Code of Criminal Procedure. *See id.* § 508.313(e), (f); Code Crim Proc. Ch. 62. Based on the department's representations and our review, we find the submitted information is subject to section 508.313 of the Government Code. 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.

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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)