



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 24, 2020

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

OR2020-16503

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# 833822 (TDCJ OGC# ML0205).

The Texas Department of Criminal Justice (the "department") received a request for all records pertaining to a named inmate. The department states it will release some information to the requestor. The department claims the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.134 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted representative sample of information.¹

Initially, we note some of the submitted information is not responsive to the instant request because it does not pertain to the named inmate. This ruling does not address the public availability of the non-responsive information, which we have marked, and the department need not release it in response to the request.

Section 552.134 of the Government Code 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

¹ 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.

[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). Upon review, we agree the responsive information constitutes information about an inmate for purposes of section 552.134. However, we note, and the department acknowledges, some of the responsive information pertains to the death of an inmate in custody, an incident involving the use of force, and an alleged crime involving an inmate. Thus, pursuant to section 552.029 the department must release basic information from the information at issue. 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.² With the exception of basic information related to the death of the inmate in custody, the incident involving the use of force, and the alleged crime involving an inmate, which the department states it has released, the department must withhold the responsive information under section 552.134 of the Government Code.³

Finally, the department asks this office to issue a previous determination permitting the department to withhold information subject to section 552.108(a)(1) of the Government Code without the necessity of requesting an attorney general opinion. We decline to issue such a previous determination at this time. Accordingly, 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.

² We note basic information does not include the identities of witnesses for purposes of section 552.134 of the Government Code.

³ As our ruling under section 552.134 of the Government Code is dispositive, we need not address the remaining arguments against disclosure of the responsive information, except to note basic information may not generally be withheld under section 552.108 of the Government Code. *See* Gov't Code § 552.108(c).

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,

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 833822

Enc. Submitted documents

c: Requestor
(w/o enclosures)