



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 16, 2022

Ms. Serena Greene
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2022-07730

Dear Ms. Greene:

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# 937024 (OGC# 1601-12-2021).

The Texas Department of Criminal Justice (the "department") received a request for records pertaining to a specified program involving the requestor. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 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). You state the information you marked pertains to an inmate who was confined in a facility operated by the department. You further state section 552.029 of the Government Code does not apply to the information at issue. We note the requestor is the former inmate to whom the information pertains. Section 552.023 of the Government Code gives a person or that person's authorized representative a "special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." *Id.* § 552.023. However, section 552.134 not only protects the inmate's privacy interest, but also protects the interests of the governmental body. As such, the requestor does not have a right of access to the information at issue under section 552.023. *See id.* § 552.023(b) (governmental body may assert provisions of Act or other law that are intended to protect person's privacy interests to withhold information to which requestor may otherwise have a special right of access). Accordingly, we find the information you marked is subject to section 552.134 of the Government Code and must be withheld on this basis.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 508.313 of the Government Code, which provides, in part, as follows:

(a) All information obtained and maintained [by the department], 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:

(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.

. . .

(e) This section does not apply to information relating to a sex offender that is authorized for release under Chapter 62, Code of Criminal Procedure.

Id. § 508.313(a),(e); *see id.* § 508.001(9) (“releasee” means a person released on parole or to mandatory supervision). You state the remaining information consists of documents maintained in the parole file of a releasee. You further state the requestor is not an entity authorized to obtain the information at issue under section 508.313(c). *See id.* § 508.313(c). We find the remaining information is not made public under section 552.029 of the Government Code. *See id.* § 508.313(f).

We note, however, the remaining information relates to a sex offender who was subject to registration under Chapter 62 of the Code of Criminal Procedure. Article 62.051 of the Code of Criminal Procedure requires a sex offender registrant to provide the following information for the Texas Department of Public Safety sex offender registration database: the person’s full name; date of birth; sex; race; height; weight; eye color; hair color; social security number; driver’s license number; shoe size; home address; each alias; home, work, or cellular telephone number; a recent color photograph, or if possible, an electronic image of the person; a complete set of fingerprints; the type of offense the person was convicted of; the age of the victim; the date of conviction; the punishment received; an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision; an indication of each license, as defined by article 62.005(g), that is held or sought by the person; an indication as to whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution; the identification of any online identifier established or used by the person; the vehicle registration information, including the make, model, vehicle identification number, color, and license plate number of any vehicle owned by the person, if the person has a reportable conviction or adjudication for specified offenses; and any other information required by the department. *See* Crim. Proc. Code art. 62.051(c). This information is public information with the exception of the person’s social security number; driver’s license number; home, work, or cellular telephone number; the identification of any online identifier established or used by the person; all information required by the Texas Department of Public Safety outside of the enumerated categories of information including any information regarding an employer’s name, address, or telephone number; and any information that would identify the victim of the offense for which the person is subject to registration. *See id.* art. 62.005(b). A penal institution may release information regarding a person required to register only if the information is public information under Chapter 62. *See id.* art. 62.009(a). Therefore, with the exception of the public information subject to article 62.005 of the Code of Criminal Procedure, which must be released, the department must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.

In summary, the department must withhold the information you marked under section 552.134 of the Government Code. With the exception of the public information subject to article 62.005 of the Code of Criminal Procedure, which must be released, the department must withhold the remaining 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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jxd

Ref: ID# 937024

Enc. Submitted documents

c: Requestor
(w/o enclosures)