



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 23, 2022

Ms. Rachelle White  
Director of Legal Affairs  
Texas Department of Criminal Justice  
Office of the General Counsel  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2022-08299

Dear Ms. White:

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# 939283 (OGC# PIA No. 0198-01-2022 & 0490-12-2021).

The Texas Department of Criminal Justice (the "department") received two requests from the same requestor for information pertaining to the requestor. You claim the submitted information is excepted from disclosure under section 552.134 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.134 of the Government Code provides, in relevant part:

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<sup>1</sup> Although you also raise section 552.101 of the Government Code, you have not provided any arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302. Further, we note, and you acknowledge, the department did not comply with section 552.301 of the Government Code in requesting this decision. *See id.* § 552.301(b). Nonetheless, because section 552.134 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

<sup>2</sup> 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.

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the [department] is excepted from the requirements of Section 552.021 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 submitted information concerns an inmate who was confined in a facility operated by the department. You 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). Therefore, the department must withhold the submitted information under section 552.134 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,

Nick Ybarra  
Assistant Attorney General  
Open Records Division

NY/jm

Ref: ID# 939283

Enc. Submitted documents

c: Requestor  
(w/o enclosures)