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ATTORNEY GENERAL OF TEXAS

May 11, 2022

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

OR2022-13479

Dear Mr. Overton:

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# 947414 (ORR# 1267-02-2022).

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a named individual. You claim the submitted information is excepted from disclosure under sections 552.101, 552.134, 552.136, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

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 encompasses section 508.313(a) of the Government Code, which provides the following:

(a) All information obtained and maintained, 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 Although the department does not raise sections 552.136 and 552.147 of the Government Code in its brief, we understand the department to raise these exceptions based on its markings.

² 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.

- (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). You state a portion of the submitted information, which you have marked, consists of records of a releasee that are subject to section 508.313 of the Government Code. You also state the requestor is not authorized to obtain this information under section 508.313(c). *See id.* § 508.313(c). Further, there is no indication this information is made public under chapter 62 of the Code of Criminal Procedure or section 552.029 of the Government Code. *See id.* 508.313(e), (f). Accordingly, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.

Section 552.134(a) of the Government Code 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.

Id. § 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 remaining information constitutes information about an inmate for purposes of section 552.134. However, some of the remaining information pertains to an alleged crime involving the inmate. Thus, pursuant to section 552.029, the department must release basic information from the submitted information. 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. Thus, with the exception of basic information, which must be released, the department must withhold the remaining information under section 552.134 of the Government Code.³

In summary, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code. With the exception of basic information, which must be released, the department must withhold the remaining 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,

Colin Henry
Attorney
Open Records Division

CEH/jxd

Ref: ID# 947414

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.