



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 12, 2015

Mr. Steve Smeltzer  
Assistant General Counsel  
Texas Department of Criminal Justice  
Office of the General Counsel  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2015-04748

Dear Mr. Smeltzer:

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# 556072.

The Texas Department of Criminal Justice (the "department") received a request for information regarding a named inmate, including major or minor disciplinary reports, I-210 documents associated with I-47MA and I-47MI reports, the tape recording of a specified disciplinary hearing, and a copy of the current D100 grading report. You claim the submitted information is excepted from disclosure under section 552.134 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments stating why information should or should not be released).

Initially, we note you have not submitted the requested tape recording. To the extent the department maintained the requested tape recording when it received the request for information, we assume the department has released it. If the department has not released

the tape recording, it must do so at this time. *See id.* §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.134 of the Government Code relates to inmates of the department and provides:

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.

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:

- (1) the inmate's name, identification number, age, birthplace, department photograph, physical description, or general state of health or the nature of an injury to or critical illness suffered by the inmate;
- (2) the inmate's assigned unit or the date on which the unit received the inmate, unless disclosure of the information would violate federal law relating to the confidentiality of substance abuse treatment;
- (3) the offense for which the inmate was convicted or the judgment and sentence for that offense;
- . . .
- (5) the inmate's earliest or latest possible release dates;
- (6) the inmate's parole date or earliest possible parole date;
- . . .
- (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(1)-(3), (5)-(6), (8). Thus, the legislature explicitly made section 552.134 subject to section 552.029. The department contends the submitted information falls within the scope of section 552.134. We agree the submitted information pertains to an inmate confined in a facility operated by the department and is subject to section 552.134 of the Government Code. We note some of the submitted information, contained in a screenshot that we understand was submitted by the department in response to the request for the D100 grading report, consists of the inmate's name and identification number subject to section 552.029(1), the inmate's assigned unit subject to section 552.029(2), the inmate's sentence subject to section 552.029(3), the inmate's earliest or latest possible release dates subject to section 552.029(5), and the inmate's parole date information subject to section 552.029(6). The department must release this information pursuant to section 552.029. *See id.* Additionally, we note some of the submitted information pertains to an alleged crime involving the inmate. Therefore, the department must release basic information about the alleged crime pursuant to section 552.029(8). *See id.* For purposes of section 552.029(8), basic information includes the time and place of the incident, the names of inmates and department employees who were involved, a brief narrative of the incident, a brief description of any injuries sustained by anyone involved, and information regarding any criminal charges or disciplinary actions that were filed as a result of the incident. As the department does not raise further exceptions to disclosure of the information subject to section 552.029, those types of information must be released.

We note the requestor provided a release signed by the named inmate and contends she has a right of access to the submitted information concerning the inmate pursuant to section 552.023 of the Government Code. Although section 552.023 of the Government Code gives a person or the 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," we note section 552.134 does not protect only the inmate's privacy interest. *See id.* § 552.023. Therefore, section 552.023 does not provide the requestor a special right of access to the submitted information in this instance. Accordingly, except for the information subject to section 552.029 of the Government Code, which the department must release, 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristi L. Godden', written in a cursive style.

Kristi L. Godden  
Assistant Attorney General  
Open Records Division

KLG/cz

Ref: ID# 556072

Enc. Submitted documents

c: Requestor  
(w/o enclosures)