



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 16, 2015

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

OR2015-07386

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# 560264.

The Texas Department of Criminal Justice (the "department") received a request for information related to a named inmate. You state the department 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 representative sample of information.<sup>1</sup>

Section 552.134(a) of the Government Code relates to inmates and former 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.

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<sup>1</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.

Gov't Code § 552.134(a). Section 552.029 of the Government Code provides, in part:

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). Thus, section 552.134 is explicitly made subject to section 552.029. You state the information at issue pertains to an inmate confined in a facility operated by the department. Upon review, we agree the information you have marked is subject to section 552.134 of the Government Code. However, although you assert section 552.029 of the Government Code does not apply to the information at issue, we find a portion of the submitted information relates to a crime involving the named inmate. Thus, the department must release basic information about the crime involving the named inmate pursuant to section 552.029. The basic information that must be released includes the time and place of the incident, the names of inmates and of 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. Accordingly, except for basic information under section 552.029(8) of the Government Code, which must be released, the department must withhold the information you have marked under section 552.134 of the Government Code.

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 section 508.313 of the Government Code, which provides, in part:

(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.

*Id.* § 508.313(a). You state the remaining information is from the parole division file of the named inmate and this information was generated “while this inmate was an ‘inmate of the institutional division subject to release to mandatory supervision, parole, or executive clemency’”; thus, you contend the remaining information is subject to section 508.313 of the Government Code. You state the requestor, in this instance, is not authorized to obtain this information under section 508.313(c). *See id.* § 508.313(c). Further, you state this information is not 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 remaining information under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code.

In summary, except for basic information under section 552.029(8) of the Government Code, which must be released, the department must withhold the information you have marked under section 552.134 of the Government Code. 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 [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,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/bhf

Ref: ID# 560264

Enc. Submitted documents

c: Requestor  
(w/o enclosures)