



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 24, 2015

Ms. Robin L. Whitney
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2015-12515

Dear Ms. Whitney:

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# 568528.

The Texas Department of Criminal Justice (the "department") received two requests for information pertaining to a specified incident involving a named inmate. You claim you need not comply with the first requestor's request pursuant to section 552.028 of the Government Code and the submitted information is excepted from disclosure under section 552.134 of the Government Code. We have considered your arguments and reviewed the submitted information.

Section 552.028 of the Government Code provides the following:

(a) A governmental body is not required to accept or comply with a request for information from:

- (1) an individual who is imprisoned or confined in a correctional facility; or
- (2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under [the Act].

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

(c) In this section, “correctional facility” means:

- (1) a secure correctional facility, as defined by Section 1.07, Penal Code;
- (2) a secure correctional facility and a secure detention facility, as defined by Section 51.02, Family Code; and
- (3) a place designated by the law of this state, another state, or the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

Gov’t Code § 552.028. You state the first requestor is the wife of the individual named in the request who is an inmate in a correctional facility. *See id.* § 552.028(c) (“correctional facility” is a place for the confinement of a person arrested for, charged with, or convicted of a criminal offense). You assert the first requestor made the present request for information as an agent of the inmate. You state the first requestor stated she is submitting her request on behalf of the inmate. Upon review, we agree the first requestor is acting as the agent of the inmate for purposes of section 552.028. Accordingly, the department need not comply with the request for information from this requestor.

Section 552.134 of the Government Code is applicable to information related to inmates of the department. Section 552.134 provides, in relevant part, the following:

- (a) Except as provided by Subsection (b) or by Section 552.029, 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). However, section 552.029 of the Government Code provides

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, the legislature explicitly made section 552.134 subject to section 552.029. 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. However, some of the information at issue pertains to an alleged crime involving the

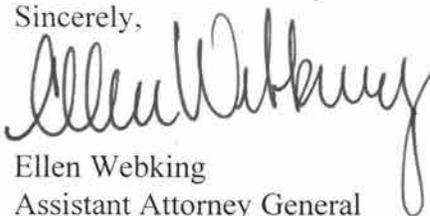
inmate. Accordingly, the department must release basic information about this incident pursuant to section 552.029(8). Basic information includes the time and place of the incident, names of inmates and department officials directly involved, a brief narrative of the incident, a brief description of any injuries sustained and information regarding criminal charges or disciplinary actions filed as a result of the incident. Therefore, with the exception of basic information, which must be released, the department must withhold the submitted information from the second requestor pursuant to section 552.134(a) of the Government Code.

In summary, pursuant to section 552.028 of the Government Code, the department need not comply with the request for information from the first requestor. With the exception of basic information, which must be released, the department must withhold the submitted information from the second requestor pursuant to 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, 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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/akg

Ref: ID# 568528

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)