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# OFFICE OF COURT ADMINISTRATION

ALICIA G. KEY  
Administrative Director

RQ-0167-GA

January 13, 2004

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OPINION COMMITTEE

**By Certified Mail, Return Receipt Requested**

The Honorable Greg Abbott  
Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

FILE # ML-43434-04  
I.D. # 43434

Re: Request for opinion concerning the effect of Section 552.1325 of the Texas Government Code on the content of judgments in criminal cases.

Dear Attorney General Abbott:

The Office of Court Administration (OCA) is statutorily charged with promulgating a standardized felony judgment form. TEX. CRIM. PROC. CODE ANN. art. 42.01(4) (Vernon Supp. 2004). The standardized form must conform to Section 1 of Article 42.01.

Section 1 sets out 27 different items of information that "should" be reflected in a judgment. TEX. CRIM. PROC. CODE ANN. art. 42.01(1) (Vernon Supp. 2004). One of these items of information (Item No. 25) is the name and permanent mailing address of the victim of the crime. This item of information is to be included in the judgment only in cases where the court orders that restitution be paid to the crime victim. However, inclusion of the victim's name and address is not required in every case in which restitution is ordered. In those cases where the court determines that "inclusion of the victim's name and address in the judgment is not in the best interest of the victim," the judgment should instead contain "the name and address of a person or agency that will accept and forward restitution payments to the victim."

In 2003, the Texas Legislature passed Senate Bill 1015 (SB 1015). Acts 2003, 78<sup>th</sup> Leg., ch. 1303, § 1. This bill added Section 552.1325 to the Texas Government Code which, in pertinent part, reads as follows:

- (b) The following information that is held by a government body or filed with a court and that is contained in a victim impact statement or was submitted for purposes of preparing a victim impact statement is confidential:

- (1) the name, social security number, address, and telephone number of a crime victim; and
- (2) any other information the disclosure of which would identify or tend to identify the crime victim.

TEX. GOV'T CODE ANN. § 552.1325(b) (Vernon Supp. 2004) (Subsection (a) defines the terms "crime victim" and "victim impact statement."). In light of this new statute, the OCA is uncertain as to whether we should continue to call for the inclusion of a crime victim's name and address in the standard felony judgment form.

There are two separate questions concerning the effect of Section 552.1325. The first question is whether Section 552.1325 makes crime victim information that is contained in judgments confidential. If the crime victim information contained in judgments is confidential, we then ask whether Section 552.1325 implicitly repeals Article 42.01(1)'s requirement to include the crime victim's name and address in the judgment.

#### Question 1

Pursuant to Section 552.1325, a victim impact statement that is filed with a court clearly cannot be released to the public without the redaction of information that would identify the crime victim. Not as clear, however, is the question of whether a judgment can be released to the public without the redaction of such information.

Section 552.1325 can be interpreted in two ways. First, one could interpret the statute to mean that a judgment containing crime victim information that is also contained in a victim impact statement (or that was submitted for purposes of preparing a victim impact statement) cannot be released to the public without the redaction of that information. Alternatively, the statute could be interpreted to pertain only to victim impact statements, *i.e.*, the crime victim information is confidential only to the extent that it exists on a victim impact statement. The same information found on a judgment would not be confidential.

If the second interpretation is correct then Section 552.1325(b) has no effect on Article 42.01's requirement to include certain crime victim information in the judgment. However, if the first interpretation is proper then a practical conflict is created between the two statutes.

#### Question 2

Section 552.1325(b) does not directly contradict Article 42.01(1) of the Code of Criminal Procedure. The new statute does not say that a judgment shall not contain the name and address of a crime victim. But Section 552.1325(b) does prohibit court clerks from releasing copies of

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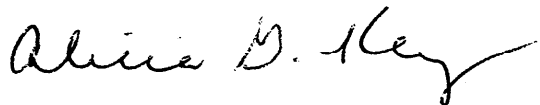
judgments that contain crime victim information (where that information is contained in a victim impact statement or where that information was submitted for the purposes of preparing a victim impact statement) . Clerks must now redact any crime victim information contained in a judgment before that judgment can be made public. The interplay of Article 42.01(1) and Section 552.1325(b) results in a somewhat unreconciled situation in which one statute commands the inclusion of certain information in a common public court document while the other statute prohibits that information from being made public. While the two statutes may not technically be conflicting, they certainly are at cross-purposes with each other.

Given the practical incongruity created by the two statutes, the OCA is uncomfortable in promulgating a standard felony judgment form that continues to call for the inclusion of a crime victim's name and address. Court clerks are understandably baffled by a requirement to include information on a judgment that must later be redacted before the judgment may be made public. The OCA is reluctant to include in its instructions for completing the standard felony judgment form a suggestion that a trial court should make any particular finding that including the victim's name and address is not in the victim's best interest. Article 42.01(1) at least seems to imply that a court's determination as to whether including a victim's name and address in a judgment is not in the victim's best interest is to be made on a case-by-case basis.

Promulgating a standard felony judgment form that ignores the requirement of Article 42.01(1) to include the victim's name and address in a judgment is clearly not a viable option for the OCA *unless* the enactment of Section 552.1325 serves to implicitly repeal that requirement. Accordingly, the OCA seeks a formal opinion on the question of implicit repeal from the Office of the Attorney General.

As Administrative Director of the Office of Court Administration of the Texas Judicial System, I respectfully request your opinion regarding the effect of the enactment of Section 552.1325 of the Texas Government Code.

Sincerely,



Alicia G. Key  
Administrative Director

AGK:lmo