



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 19, 2016

Ms. Stacy Spann  
Assistant General Counsel  
Office of General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Hunstville, Texas 77342-4004

OR2016-18804

Dear Ms. Spann:

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# 623336.

The Texas Department of Criminal Justice (the "department") received a request for (1) information related to a specified search conducted on a named inmate; (2) documents pertaining to a specified portion of a policy manual; (3) minutes of a department meeting pertaining to a specified topic; (4) information pertaining to how the department classifies certain inmates as threats; and (5) a list of all personal property confiscated during the specified search. 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 from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note you have not submitted information responsive to the first four categories of information. To the extent any information responsive to these portions of the request existed on the date the department received the request, we assume the department has released it. If the department has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .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).

Next, we address the requestor's assertion that the Office of the Attorney General (the "OAG") is not the proper entity to issue an open records ruling in this instance. The requestor states that because the OAG is the "legal representative and 'legal counsel'" for the department and its employees, the OAG has "an inherent conflict of interest that prohibits the [OAG] from rendering a fair, impartial, and neutral 'decision'" on the present request for a ruling. We note this office is statutorily bound to issue an open records decision within forty-five business days of receiving a request for a ruling from a governmental body. *See* Gov't Code § 552.306(a) (requiring OAG to "promptly render a decision requested under [the Act], consistent with the standards of due process, determining whether the requested information is within one of the exceptions of [the Act]"); *see also Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152, 157 (Tex. App. – Austin 2001, no pet.) (noting Act requires OAG to determine what information is excepted from disclosure); Open Records Decision No. 687 at 3 (2011) (noting section 552.306 directs OAG "in mandatory language" to rule when a governmental body requests an open records ruling). The department received a request for information for which it requested a decision from the OAG about whether the responsive information is subject to an exception under the Act. *See* Gov't Code § 552.301. Therefore, pursuant to the Act, this office must issue a ruling on whether the information at issue may be withheld under the Act.<sup>1</sup>

Next, we address the requestor's assertion the department failed to comply with its procedural obligations under section 552.301 of the Government Code. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See id.* Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b).

The department informs us it received the request for information on June 3, 2016. Accordingly, the department was required to provide the information required by section 552.301(b) by June 17, 2016. The requestor asserts the department violated the Act because it did not comply with the requirements of section 552.301(b). We note, however, the department submitted to our office the information required by section 552.301(b) by hand delivery on June 16, 2016. Accordingly, we find the department complied with its procedural requirements mandated by section 552.301(b). Therefore, we will consider the department's argument to withhold the information at issue.

Section 552.134 of the Government Code provides, in relevant part:

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<sup>1</sup>The Open Records Division is the OAG division tasked with issuing a ruling and is not the division that represents the department.

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the [department] is excepted from the requirements of Section 552.021 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). You state the submitted information concerns an inmate confined in a facility operated by the department. You state section 552.029 of the Government Code does not apply to the information at issue. Thus, we agree the information at issue is subject to section 552.134 of the Government Code. Therefore, 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,



Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MJC/akg

Ref: ID# 623336

Enc. Submitted documents

c: Requestor  
(w/o enclosures)