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ATTORNEY GENERAL OF TEXAS

August 23, 2017

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

OR2017-19272

Dear Mr. Miller:

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# 672395 (TDCJ# AL0028).

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to inmates that have been disciplined under a specified rule. 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 must address the requestor's claim the department failed to comply with the procedural requirements a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See id.* § 552.301. 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). Further, pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed

statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). In this instance, the department received the request for information on June 8, 2017. The department informs us it operated on a skeleton crew on June 19, 2017. This office does not count holidays, including skeleton crew days observed by a governmental body, as business days for the purposes of calculating a governmental body's deadlines under the Act. Accordingly, the department's ten- and fifteen-business-day deadlines were June 23, 2017, and June 30, 2017, respectively. This office received the information required by section 552.301(b) on June 20, 2017, and the envelope containing the information required by section 552.301(e) is meter-marked June 30, 2017. *See id.* § 552.308(a) (prescribing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we find the department complied with the requirements of section 552.301 in requesting this decision from our office.

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

(a) 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.

(b) Subsection (a) does not apply to:

(1) statistical or other aggregated information relating to inmates confined in one or more facilities operated by or under a contract with the department[.]

Id. § 552.134(a), (b)(1). Upon review, we agree the submitted information constitutes information about inmates who are or were confined in a facility operated by the department for purposes of section 552.134. You state section 552.029 of the Government Code does not apply to the information at issue. Thus, we agree the submitted information is subject to section 552.134 of the Government Code. The requestor asserts the submitted information consists of statistical or other aggregated information relating to inmates confined in one or more facilities operated by or under a contract with the department. We note section 552.134 is not applicable to such information. *See id.* § 552.134(b)(1). However, upon review, we find none of the submitted information consists of statistical or other aggregated information for the purposes of section 552.134(b)(1). Therefore, section 552.134(b)(1) does not apply and 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, 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

Ref: ID# 672395

Enc. Submitted documents

c: Requestor
(w/o enclosures)