



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 26, 2018

Ms. Dannet Bock-Barnes
Assistant General Counsel
Office of the General Counsel, TDCJ
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2018-01824

Dear Ms. Bock-Barnes:

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# 692883 (TDCJ#DT0002).

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to every unit to which the requestor was assigned during a specified time period and administrative segregation documents pertaining to the requestor. You claim the requested information is excepted from disclosure under sections 552.101, 552.108, 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the department's obligations under the Act. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed 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. Gov't Code § 552.301(e). The department received the request for information on November 8, 2017. We note the department was closed on November 23, 2017, and November 24, 2017. We note this office does not count the date the request was received or holidays for the purpose of calculating a governmental body's

deadlines under the Act. Thus, the department's fifteen-business-day deadline was December 1, 2017. However, the department did not provide the information required by section 552.301(e) until December 4, 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). Accordingly, we conclude the department failed to comply with the requirements of section 552.301. Consequently, we find the department failed to comply with the requirements of section 552.301 in requesting a decision.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The department claims sections 552.101, 552.108, and 552.134 of the Government Code for the submitted information. Because sections 552.101 and 552.134 can provide compelling reasons to overcome the presumption of openness, we will address your arguments under these sections for the submitted information. However, we find you have failed to establish a compelling reason to address your remaining exception.

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

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.

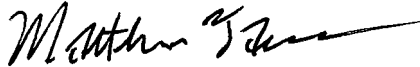
Gov't Code § 552.134(a). Upon review, we agree the submitted information constitutes information about an inmate, the requestor, for purposes of section 552.134. Although section 552.023 of the Government Code gives a person or the person's authorized representative a "special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests," we note section 552.134 does not protect only the inmate's privacy interest. *See id.* § 552.023(a). You state section 552.029 of the Government Code does not apply to the information at issue. Accordingly, the department must withhold the submitted information under section 552.134 of the Government Code.¹

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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,

A handwritten signature in black ink, appearing to read "Matthew Taylor", with a long horizontal flourish extending to the right.

Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/gw

Ref: ID# 692883

Enc. Submitted documents

c: Requestor
(w/o enclosures)