



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 11, 2019

Ms. Ana Vieira Ayala
Assistant General Counsel, Legal Expert & Public Information Coordinator
University of Texas System
210 West Seventh Street
Austin, Texas 78701-2902

OR2019-06681

Dear Ms. Ayala:

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# 751135 (ORR# 186151).

The University of Texas Medical Branch at Galveston (the "university") received a request for the number of prosthetic limbs and the number of wheelchairs that were provided to inmates of the Texas Department of Criminal Justice (the "department") for every year for the past ten years. The university states it will withhold information pursuant to Open Records Letter No. 2016-13184A (2016).¹ The university claims the remaining submitted information is excepted from disclosure under section 552.134 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.² We have also considered comments submitted by a representative of the

¹Open Records Letter No. 2016-13184A is a previous determination authorizing the University of Texas System and its institutions to withhold individuals' protected health information under section 181.006 of the Health and Safety Code.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to 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 the requestor seeks only the number of prosthetic limbs and the number of wheelchairs that were provided to inmates of the department for every year for the past ten years. The university has submitted documents that contain information beyond the requested numbers. Additionally, we note a representative of the requestor, in comments to this office, states, "to the extent [the university] seeks to have [the Office of the Attorney General] opine on the exemption of records that are anything other than statistical or other aggregated information . . . such information may not be responsive to the . . . [r]equest at all."

We note the Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 561 at 8-9 (1990), 555 at 102. We assume the university has made a good-faith effort to do so.

However, upon review of the submitted information, we note the university appears to be in possession of the necessary data and may have the capacity to manipulate the data to derive the requested numbers from the submitted information. A request for public information that requires a governmental body to program or manipulate existing data is not considered to be a request for the creation of new information. *See* Gov't Code § 552.231; *Fish v. Dallas Indep. Sch. Dist.*, 31 S.W.3d 678, 681-82 (Tex. App.—Eastland 2000, pet. denied) (plaintiffs' request required manipulation of existing data rather than creation of new information); Open Records Decision No. 661 at 6-7 (1999). Thus, if information that is otherwise available to a governmental body can be programmed or manipulated for the purpose of responding to a request for information, then the governmental body has access to information responsive to that request.

Section 552.231 of the Government Code prescribes procedures that must be followed if, in responding to a request for information, a governmental body would be required to program or manipulate data. *See* Gov't Code § 552.231(a) (written statement described by section 552.231(b) shall be provided to requestor if governmental body determines (1) responding to request for information will require programming or manipulation of data and (2) compliance with request is not feasible or will result in substantial interference with ongoing operations or that information could be made available in requested form only at costs that cover programming and manipulation). A governmental body that fails to follow the requirements of section 552.231 is not released by that section from its obligation to provide

extent those records contain substantially different types of information than that submitted to this office.

the requested information or to seek a ruling from this office as to whether the information is excepted from disclosure. *See Fish*, 31 S.W.3d at 682. Thus, the university's officer for public information carries the duty of promptly producing such public information when it is requested, unless the university wishes to withhold the information. Gov't Code §§ 552.203, .221. Accordingly, if the university has the capacity to manipulate its data to derive the requested numbers, it must do so and release the requested numbers. *See id.* § 552.134(b)(1) (statistical or other aggregated information relating to inmates confined in one or more facilities operated by or under a contract with the department is not confidential under section 552.134). If the university does not have the capacity to manipulate its data to derive the requested numbers from the submitted information, we will address the university's arguments against disclosure of the submitted information.

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

(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.

Gov't Code § 552.134(a). The university states, pursuant to the Correctional Managed Health Care Committee Contract, the university is responsible for furnishing medical and psychiatric care to inmates of the department. The university further states the information at issue relates to inmates of the department and was released to the university for a purpose related to treatment. *See id.* § 552.134(d). Based on these representations and our review, we find the data within the submitted records consists of information about inmates maintained by the university on behalf of the department. Therefore, the university must withhold the information we indicated under section 552.134 of the Government Code. However, the university must release the remainder of the records.

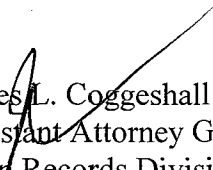
In summary, if the university has the capacity to manipulate its data to derive the requested numbers, it must do so and release the requested numbers. If not, the university must withhold the information we indicated under section 552.134 of the Government Code and must release the remainder of the records.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 751135

Enc. Submitted documents

c: Requestor
(w/o enclosures)