



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 6, 2020

Mr. William Overton
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2020-03548

Dear Mr. Overton:

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# 810565 (OGC No. ML00033).

The Texas Department of Criminal Justice (the "department") received a request for three categories of information pertaining to a specified photograph of inmates. You state the department does not have information responsive to two categories of the request.¹ 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 address the requestor's contention the department did not comply with the procedural requirements of the Act. Section 552.301 describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b), the governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See id.* § 552.301(b). In this instance, the department states it received the request for information on November 12, 2019. This office does not count the date the request was received for the purpose of calculating a governmental body's deadlines under the Act. Accordingly, the department's ten-business-day deadline was November 26, 2019. We note the department requested a ruling from this office on November 26, 2019. *See id.*

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

§ 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). Because the department requested a decision from this office within the ten-business-day deadline, we find the department complied with section 552.301(b) of the Government Code.

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

(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.

Id. § 552.134(a). You state the submitted information constitutes information about inmates 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. Upon review, we find the submitted information is subject to section 552.134 of the Government Code and must be withheld on this basis.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/be

Ref: ID# 810565

Enc. Submitted documents

c: Requestor
(w/o enclosures)