



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 23, 2020

Mr. Nicholas Morrell
Assistant General Counsel
Texas Department of Criminal Justice
Office of General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2020-16455

Dear Mr. Morrell:

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# 833485 (OGC# ML0202).

The Texas Department of Criminal Justice (the "department") received a request for a specified appeal pertaining to the requestor. You claim the submitted information is excepted from disclosure under sections 552.108, 552.111, and 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 procedural obligations under the Act. Section 552.301 of the Government Code 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* Gov't Code § 552.301(a), (b). In this instance, you state, and submit documentation demonstrating, the department received the request for information on March 30, 2020. Accordingly, the department's ten-business-day deadline was April 13, 2020. However, you did not request a ruling from this office until April 14, 2020. *See id.* § 552.308 (describing 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 failed to comply with the requirements of section 552.301 in requesting this decision from our office.

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 552.108, 552.111, and 552.134 of the Government Code for the submitted information. Because section 552.134 can provide a compelling reason to overcome the presumption of openness, we will address your argument under this section for the information at issue. However, we find you have failed to establish a compelling reason to address your remaining exceptions.

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). The department asserts the information it marked documents consist of information about an inmate confined in a facility operated by the department. However, as you acknowledge, a portion of the information at issue pertains to an alleged crime involving the inmate. Thus, pursuant to section 552.029(8) of the Government Code, the department must also release basic information from the information at issue. Basic information includes the time and place of the incident, names of inmates and department officials directly involved, a brief narrative of the incident, a brief description of any injuries sustained, and information regarding criminal charges or disciplinary actions filed as a result of the incident. Therefore, with the exception of basic information, which must be released, the department must withhold the information at issue 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 <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,

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/be

Ref: ID# 833485

Enc. Submitted documents

c: Requestor
(w/o enclosures)