



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 1, 2012

Ms. Patricia Fleming
Assistant General Counsel
TDCJ-Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2012-03191

Dear Ms. Fleming:

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# 447106.

The Texas Department of Criminal Justice (the “department”) received a request for five categories of information related to inmate medical, dental, and mental health care, including a list of inmates who incurred the highest amount of health care bills. You state some responsive information has been released to the requestor. You claim that 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.

Initially, you acknowledge, and we agree, the department failed to request a ruling within the statutory time period prescribed by section 552.301(b) of the Government Code. *See* Gov’t Code § 552.301(b). Pursuant to section 552.302 of the Government Code, a governmental body’s failure to comply with the requirements of section 552.301 results in the legal presumption the requested information is public and must be released, unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (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) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential by law. *See*

Open Records Decision No. 150 (1977). Because section 552.134 of the Government Code can provide a compelling reason for non-disclosure, we will consider the applicability of this exception.

Section 552.134 relates to inmates and former inmates of the department. This section states in relevant part, "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 submitted records constitute information about inmates confined in a facility operated by the department. We find the exceptions in section 552.029 are not applicable. Therefore, 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 447106

Enc. Submitted documents

c: Requestor
(w/o enclosures)