



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 27, 2015

Mr. J. Greg Hudson
Counsel for Capital Area Private Defender Service
Hudson & O'Leary, LLP
1010 MoPac Circle, Suite 201
Austin, Texas 78746

OR2015-05934

Dear Mr. Hudson:

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# 558031.

Capital Area Private Defender Service ("CAPDS"), which you represent, received a request for the name and e-mail address of each attorney who has applied for, and been granted, inclusion on the list of attorneys who may be appointed to represent indigent criminal defendants in Travis County courts. You state CAPDS has provided some of the requested information to the requestor. You claim the remaining information is excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹ We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, the requestor contends CAPDS failed to meet the procedural requirements of section 552.301(b) of the Government Code. Section 552.301 describes the procedural

¹We 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 extent those records contain substantially different types of information than that submitted to this office.

obligations placed on a governmental body that receives a written request for information it wishes to withhold. *See id.* § 552.301(b). Pursuant to section 552.301(b), the governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request. *See id.* We note CAPDS received the request for information via e-mail after 5 p.m. on January 5, 2015, which we understand is after CAPDS's business day concluded. As such, we find CAPDS received the request for information on January 6, 2015. 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. Further, section 552.301(b) refers to business days, rather than calendar days. *See id.* The envelope in which CAPDS provided the information required by section 552.301(b) was postmarked January 20, 2015. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude CAPDS complied with the procedural requirements mandated by section 552.301(b) of the Government Code.

Section 552.137 of the Government Code provides, in relevant part:

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent; [or]

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract[.]

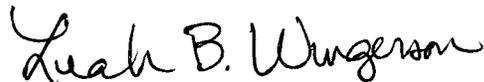
Id. § 552.137(a)-(c)(3). CAPDS seeks to withhold the submitted e-mail addresses of attorneys on the list of attorneys who may be appointed to represent indigent criminal

defendants in Travis County courts. Upon review, we find the submitted e-mail addresses are subject to section 552.137(c) of the Government Code. Consequently, CAPDS may not withhold the submitted e-mail addresses under section 552.137(a) of the Government Code. As no further exceptions to disclosure have been raised, CAPDS must release the submitted 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/bhf

Ref: ID# 558031

Enc. Submitted documents

c: Requestor
(w/o enclosures)