



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 19, 2016

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

OR2016-11570

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# 611039.

The Texas Department of Criminal Justice (the "department") received a request for fifteen categories of information pertaining to lethal injection executions. The department states it will release some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.1081 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

The 85th Legislature recently added section 552.1081 to the Act. Section 552.1081 states:

Information is excepted from the requirements of [the Act] if it contains identifying information under Article 43.14, Code of Criminal Procedure, including that of:

- (1) any person who participates in an execution procedure, including a person who uses, supplies, or administers a substance during the execution; and
- (2) any person or entity that manufactures, transports, tests, procures, compounds, prescribes, dispenses, or provides a substance or supplies used in an execution.

Gov't Code § 552.1081. Article 43.14(b) of the Code of Criminal Procedure states the name, address, and other identifying information of certain persons or entities involved in execution

procedures are confidential. Crim. Proc. Code art. 43.14(b). You state portions of the submitted information consist of the identifying information of the department's pharmacy vendors, laboratory, and disposer used for the procurement, testing, and disposal of execution drugs and the identities of individual who participate in an execution procedure. Upon review, we find the information we marked consists of the identifying information of entities and persons that participate in execution procedures or manufacture, transport, test, procure, compound, prescribe, or provide supplies or substances used in an execution. Thus, we find the department must withhold the information we have marked under section 552.1081. However, you have failed to demonstrate the remaining information at issue consists of information made confidential under section 552.1081. Therefore, the department may not withhold any portion of the remaining information at issue under section 552.1081.

The remaining information contains access device numbers subject to section 552.136 of the Government Code. Section 552.136 provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Upon review, the department must withhold the access device numbers we marked under section 552.136 of the Government Code.

In summary, the department must withhold the information we marked under section 552.1081. The department also must withhold the information we marked under section 552.136. The remaining information must be released.

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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bw

Ref: ID# 611039

Enc. Submitted documents

c: Requestor
(w/o enclosures)