



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2007

Mr. James Frazier III
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Mr. John West
General Counsel
Office of the Inspector General
P.O. Box 13084
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OR2007-09561

Dear Mr. Frazier and Mr. West:

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# 285419.

The Texas Department of Criminal Justice (the "department") received a request for all information regarding the death of a named inmate, and when that inmate was transported and moved to the Stiles Unit. The Office of the General Counsel (the "OGC") and the Office of the Inspector General (the "OIG") have submitted separate briefs, as well as separate documents that each seeks to withhold from disclosure. The OGC claims that the information it has submitted is excepted from disclosure under sections 552.101, 552.108, and 552.134 of the Government Code. The OIG states that it has released the basic information regarding case file number 05-2001 with redactions pursuant to the previous

determination issued by this office in Open Records Letter No. 2005-01067 (2005).¹ *See* Gov't Code § 552.029(8) (basic information regarding an alleged crime involving an inmate is subject to required disclosure). The OIG also states that it has released the custodial death report regarding the deceased inmate. The OIG claims that the information it has submitted is excepted from disclosure under sections 552.101, 552.108, and 552.134 of the Government Code. We have considered the exceptions claimed and reviewed the submitted information.²

Both the OGC and the OIG seek to withhold the submitted information under section 552.134 of the Government Code, which provides in relevant part:

(a) Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the Texas Department of Criminal Justice 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). Section 552.029 of the Government Code provides:

Notwithstanding Section 508.313 or 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the Texas Department of Criminal Justice is subject to required disclosure under Section 552.021:

...

(8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

¹Open Records Letter No. 2005-01067 serves as a previous determination that the present and former home addresses and telephone numbers, social security numbers and family member information of current or former employees of the department, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, are excepted from disclosure under section 552.117(a)(3) of the Government Code.

²We assume that 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 that those records contain substantially different types of information than that submitted to this office.

Id. § 552.029(8). The information at issue concerns inmates confined in a facility operated by the department. Section 552.134 is explicitly made subject to section 552.029 of the Government Code. Under section 552.029, basic information regarding the death of an inmate in custody, an alleged crime involving an inmate, and an incident involving the use of force is subject to required disclosure. 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. Here, the information includes an investigation of the death of an inmate in custody and several alleged crimes involving an inmate. Accordingly, with the exception of basic information, the OGC must withhold the information it has submitted under section 552.134 of the Government Code.³ The OIG must withhold the information it has submitted under section 552.134 of the Government Code.⁴

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

³As our ruling is dispositive, we need not address the OGC's remaining arguments against disclosure.

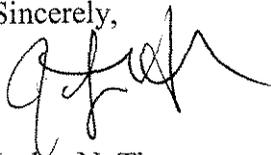
⁴As our ruling is dispositive, we need not address the OIG's remaining arguments against disclosure.

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jaclyn N. Thompson
Assistant Attorney General
Open Records Division

JNT/ma

Ref: ID# 285419

Enc. Submitted documents

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(w/o enclosures)